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March 1966

BILINGUALISM IN SOUTH AFRICA

Comparative Studies. Data Book on South Africa

Part I

by

Prof. K.A. Heard - Background Essay
Constitution
Institutions

Prof. J.J.N. Cloete - Public Service *

Dr. W.G. McConkey - Education *

John G. Gordon - Statistical Profile

Prof. K.D. McRae & Judy M. Dibben - Armed Forces

* These reports are external contracts and are published separately.

COMPARATIVE STUDIES

Data Book on South Africa (Part I)

This volume is one of a series presenting the findings of the Commission's programme of research into the experiences of certain, selected countries that are, like Canada, faced with problems of bilingualism and biculturalism. The data collected on Switzerland, Finland and South Africa are arranged in three separate volumes, one for each country. Similar -- though not identical -- arrangements apply also to Belgium. A further volume is projected which will contain such information as has been assembled on countries other than these four.

To facilitate the work of the Commission, the material has been organized so as to correspond with the subject matter of the six study groups. Pagination, whenever possible, has also followed this pattern. The general plan of presentation is, consequently, as follows:

<u>For study group:</u>	<u>Subject of Section</u>	<u>Pagination</u>
A	Federal Public Service	
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B	Education and Official Language Minorities	B 1
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	1. Constitutions	C 1
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F	Private Business and Voluntary Associations	
	1. Private business	F 1
	2. Voluntary associations	F 101
	3. Political parties and voting behaviour	F 201

The bulk of the data will be distributed in two phases:

the first covering study groups A, B and C; the second providing
for the remainder. Material that is not ready at the time of
distribution will be separately published in the form of
supplements as it becomes available.

A general section of two parts, paginated in a simple numerical series, precedes the more specialized material. It should be of interest and concern to members of all study groups. The first part is an historical introduction, dealing with the linguistic, cultural and social development of the country in question, while the second part gives a more precise demographic and statistical profile, with particular reference to the present situation and recent trends. A list of books consulted is appended to each section.

Supervisor Kenneth D. McRae

December 1965

A Brief History of South Africa

by

K.A. Heard.

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I. Introduction

The history of South Africa may be viewed from a variety of perspectives, and the present composite structure of South African society should indeed lead us to expect this. Any attempt, to relate the events of the past to a single theme - whether it be the conflict between Dutch and English nationalisms, or the emergence of Afrikaner nationalism, or the conflict between Black and White, or the conflict between individualism and authoritarianism, or any other chosen viewpoint - inevitably results in at least a partial distortion of that past viewed as a whole, even though it might shed light on a particular aspect of it. The present study concerns specifically the relations between the two white sections of the South African population. It is doubtful whether this is an issue of primary importance in the contemporary situation: probably more important are the relations between Black and White generally, and, indeed, the forces operating within the Afrikaner and African sections of the South African population respectively.

In focussing attention on the relations between the Afrikaans- and English-speaking peoples, therefore, we must avoid the temptation to regard the resulting emphasis on this area of the socio-political environment in South Africa as being, in fact, the "natural" emphasis.

And if this word of caution is necessary in the interpretation of contemporary South African society, it is, perhaps, even more necessary in the interpretation of the past.

There is an understandable tendency to identify South African history with the period that began with the second (and permanent) British occupation of the Cape in 1806. So much of outstanding importance to subsequent developments in South Africa falls within this period: the Great Trek, most of the "Kaffir" Wars, the establishment of the Boer Republics, the discovery of diamonds and of gold, the Jameson Raid, and the outbreak of the Second Boer War at its close, to name but some of the landmarks. Again, it is well to remember that when this period began there had already been a continuous history of white settlement at the Cape of over 150 years and that in that earlier period lay the roots of many of the later developments. While the Cape was still a Dutch possession, for example, the "trekker" movement had begun, spreading both East and North to the displeasure, and frequently contrary to the orders, of the government; conflicts between the frontier Boers and the government were almost as frequent as they were between the former and the on-coming tribes; there were occasional minor rebellions; there were charges laid of governmental corruption and tyranny linked with demands by the "burghers" for a share in the government, and counter-charges of indolence and depravity especially among the trek-Boers, and first with the Hottentots, then with the Bushmen, and finally with the Xhosas there were continual raids and counter-raids, campaigns to

exterminate or virtually enslave (particularly against the Bushmen) and sometimes near-pitched battles. And with all this, the officials of the Dutch East India Company struggled, sometimes manfully sometimes indifferently, with few resources, an ever-widening deficit, and virtually no means of enabling effective government to keep pace with the expanding frontiers.

2. The First White Settlers

When Jan van Riebeeck had landed in the Cape in 1652 to establish a refreshment post for the Dutch East India Company there had been no thought of establishing a settler colony. At first the establishment consisted only of officials of the Company doing a limited tour of duty there. A small element of "free burghers" soon developed, however; and shortly after van Riebeeck's departure, immigration was officially encouraged, partly in order to lighten the burden of the garrison. At first the majority of the new immigrants were Germans, and it is estimated that by the end of the seventeenth century between one fifth and one sixth of the settler population was of German origin.¹ At least some of these German immigrants had previously lived in the Netherlands for some time and

1. E. Moritz. Die Deutschen am Kap, p. 80, quoted by P.J. van der Merwe in A.G.H. van der Walt et al, Geschiedenis van Suid - Afrika, (Cape Town, n.d.), p. 64.

had married Dutch wives. In any event, the Germans quickly became totally assimilated to the Netherlander community; the official language was Netherlands, as was also the language of church and school; there were no German newspapers¹ and hardly any German books; moreover, the Germans lived intermingled with the Dutch and made no attempt to maintain themselves as a separate community. The population was further increased by the "importation" of orphan girls from the Netherlands. These soon married and laid the foundations for a further natural increase.

During 1688-89, an important addition to the colony was made by the immigration of the Huguenots. These numbered altogether just under 200; but, as Eric Walker points out, "economically and socially their influence was out of all proportion to their numbers. They were of a better social class than most of the Dutch and German settlers who accompanied or preceded them; some of them were skilled vine and olive-dressers or artisans; they were nearly all young and married, real colonists who had no Fatherland towards which to turn their head and ears in bad times, for the Netherlands had been at best a city of refuge and la belle France was closed to them."²

1. This comment by van der Walt appears to be anachronistic.

2. Eric A. Walker, A History of Southern Africa (London, 1957), pp. 51-2.

Where the assimilation of the German settlers had been a natural process, that of the Huguenots was the result of a deliberate policy, carried out in face of the dismay and opposition of the Huguenots themselves who Governor Simon van der Stel complained, were "of a mind to have their own Magistrate, Commander and Prince to be chosen by the people."¹ In conformity with his policy, van der Stel settled them in such a way that they were interspersed among the Dutch and Germans, although some concessions were made with regard to the appointment of French schoolmasters and ministers. The policy, in the end, succeeded and the Huguenot element merged in the new Afrikaner nation that was beginning to grow up.²

The difficulties arising from the policy, however, were such that the Governor asked that no more French settlers be sent and to this, in 1700, the Directors of the Company agreed. Seven years later, indeed, the policy of assisted immigration ceased altogether and it was not until the 1820 British settlers that organized immigration was resumed.

These twenty or more years had, however, been of immeasurable importance in building up the Cape population, as may be seen by the figures given by Walker:

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1. Quoted by Eric Walker, op.cit., p. 53.
 2. Walker notes that by the turn of the century, "the colonial-born in the outlying parts were calling themselves Afrikaners in contrast to the semi-foreign Hollander officials at the Castle". op. cit., p. 66.

	<u>Free burgher population</u>	<u>Adults</u>	<u>Children</u>
1687	573	342	231
1707	1624	803	821

It was as well that the free burghers took to heart the Biblical injunction to be fruitful and multiply; for by this means the population continued to grow during the eighteenth century despite the lack of immigrants. In 1740, the settler population was estimated at about 4,000; in 1756 at 5,123; in 1778 at 9,867; and in 1793 at 13,830 (although Barrow, an English traveller, in 1798 estimated ¹ a population of 20,000, a quarter of them in Cape Town).

Of considerable importance, too, to the subsequent political history of South Africa was the importation and increasing use of slaves. These were regarded as essential in view of the labour shortage, the Bushmen having withdrawn and the Hottentots in general being regarded as unreliable. By the middle of the eighteenth century the slave population actually surpassed that of the settlers. In 1687 the slaves owned by settlers numbered 310; in 1708, 1298; in 1756, 5787; and in 1793, 16,767, and in addition there ² were some 600 slaves owned by the Company. Not only did the abolition of slavery by the British Government

1. Eric A. Walker, op.cit., p. 66. These figures are somewhat larger than those given by van der Walt.

2. Op. cit., p. 81 and 84.

later contribute to the Great Trek; but the attitudes bred by slave-owning and by the use of large numbers of Hottentot, half-caste, Bushmen and Bantu "apprentices" undoubtedly played their part in the evolution of later Afrikaner policies towards the non-White population.

Of equal importance to subsequent developments was the way of life adopted by the settlers, especially the cattle-farmers. Here, too, geography played its part. Bordered to the north by successive ranges of mountains, and to the south by the sea, the plains rolled eastward, inhospitable to the agriculturalist but inviting to the cattle and sheep farmer. What is more, except for the Bushmen who retreated northwards, there to fight a temporarily successful containing action, they were largely empty; for the vanguard of the Bantu migration had not yet reached this area. And if the Company was subsequently plagued by the problem of disappearing burghers - the "trekboers" - and by the frontier problems pushed up by their advance, it had, in part, only itself to blame; for its own policy, or lack of it, further encouraged the movement. In 1703 it began granting grazing licences, first for three months, then for six and finally for a year. This policy was regarded as a temporary measure to prevent the alienation of land. But in fact, provided the annual fee was met, the licence was regarded as giving effective title. Grazing rights, under this system, were granted over land having a diameter of an

hour's horse ride; but there was no survey, nor indeed, any supervision over the extent of land claimed. Since the Boers had a natural aversion to having neighbours at their elbows, they tended to take over land beyond the boundaries of others. Some, moreover, leased in this way a large number of grazing farms. As the population grew, therefore, the cattle farmers moved farther and farther away from Capetown, taking their families, their slaves, their servants, and above all their cattle and sheep with them.

In the end, however, the movement was halted. In 1780 a firm boundary line was drawn between the trekboers and the Bantu, more or less at the point of their meeting, along the Fish River. Indeed it was the forward pressure of the Bantu migration rather than the official proclamation of the boundary that halted the eastward movement. Orders by the Council of Policy at the Cape forbidding barter and further eastward movement had been issued in 1677, 1727, 1739, 1770, 1774 and yet another was to come in 1786; but without the physical means to enforce them, the Council was virtually helpless. A drosdy was established in 1786 in the Graaff-Reinet area, extending to the boundary, and that did help to bring a semblance of governmental authority to the outlying regions; but, by and large, the farmers remained ruggedly independent, a law unto themselves. The Bantu, however, as van der Walt puts it, "formed an effective obstacle in the way of further eastward expansion; indeed the Boers of the thinly populated border region of the

Suurveld in the eighteenth century had their hands full to prevent the penetration of the Bantu."¹

In the north east, at about the same time, the Bushmen constituted a similar obstacle, not so much through the pressure of numbers and competition for grazing ground for cattle, for the Bushmen were nomadic hunters, as through the sheer tenacity with which they fought off the White intruders on their hunting grounds. The farmer in the Sneeuberg region, Barrow reported at the end of the century, "lives in a state of perpetual personal danger He can neither plough, nor sow, nor reap, without his arms. If he would gather a few greens in the garden, he must take his gun in his hand. To bear a life of such constant dread and anxiety, a man must be accustomed to it from his infancy, or unacquainted with one that is better."²

The border farmers, in fact, satisfied both these conditions. In the seventy-five to eighty years, since the dispersion first began, the Boers came to occupy an area that stretched 500 miles eastward along the Indian Ocean coast and covering a band some 100-200 miles wide, and

1. A.J.H. van der Walt et al., op. cit., p. 99. Translated.

2. Quoted by van der Walt, op. cit. p. 102.

300 miles northward in a narrowing band up the Atlantic coast. In 1778-9 it had taken Governor Van Plettenberg a year and two months to complete an inspection tour of the eastern and north eastern regions of the colony.¹ The Boers had indeed grown up in relative isolation remote from government and civilization, accustomed to hardship and danger. Their way of life is summed up by Walker in these words:

If Capetown had little attraction for the wine and grain farmers, it had less for them. They might trek in once in a way with a waggon-load of butter and soap which they were glad to sell for half its value; they must come in at least once in their lives with their prospective brides to present themselves before the hated matrimonial court; but they were out of their element in the streets of a town, and they knew it. The capital represented to them the seat of an unsympathetic and alien central government which presumed to tax them, gave them little in return, interfered with their cherished cattle-trade with the natives, and even tried to preserve the game on which they relied for so much of their food. They went to Capetown as seldom as possible and left it as soon as they had bought brandy, coffee, and dress-lengths for the coming year.²

And amenities nearer home were too scarce and still too remote to fill the gap in their lives. Walker records that they occasionally made a journey (he does not say to where) for a Communion Service, and that the women would trek for six or seven weeks to Roodezand, the nearest

1. A.J.H. van der Walt, op. cit., p. 98.

2. Walker, op. cit., p. 90.

church, to have their babies christened, sometimes "in batches".¹ But van der Walt records that the farmers of the Camdebo region complained in 1778 that they had to miss "the consolation of Holy Communion".² In the same petition the Boers further complained that in the absence of church and school their children were growing up like "dumb cattle".³ Similar fears were expressed with regard to the whole community. "Serious observers," van der Walt writes, "indeed feared that the situation would lead to total degeneration and to their going completely wild."⁴ Neither of these fears was realized, although the constant raids, reprisals and battles in which they were involved with Bushmen or Bantu added a hardness and rigidity and a disregard for human life to the other attitudes bred of lack of civilized contacts. Their fundamentalist Calvinism did little to inhibit the growth of these attitudes. Their favourite Bible-readings were from the Old Testament where God's Chosen People battled with and, when they could, massacred, the Philistines. On the other hand, the same devoutness served to ensure that

1. Op. cit., p. 99.

2. Van der Walt, op. cit., p. 104.

3. Ibid.

4. Ibid. Translated.

the children were taught to read as far as possible, for only in this way could they, in their turn, conduct the daily prayers and readings with their families. It also taught them to regard themselves as a separate people and thus kept them from "going native" as some feared.

The future significance of this situation as it has developed by the end of the eighteenth century is this summed up by van der Walt:

Of equal, if not greater, significance is the fact that in this period the heterogeneous elements for the Boer people were knit together into a new national entity with the dawning consciousness of their own national separateness (apartheid), and their own vernacular that curiously exhibited little difference in the various parts of the land.... Finally they developed in this period their own peculiar ideology with respect to the proper relationship between Christian and heathen, white and coloured, which, together with their religion, and indeed closely connected with it, became one of the firmest corner-stones of the "life-view" of the Afrikaner.¹

It is necessary to emphasize at this point, however, that this is a picture of the condition of the outlying cattle farmers only. A rather different picture would have to be drawn of the inhabitants of the Western Cape - approximately half of the total population. About a half of these lived in or around Cape Town; the rest were mainly grain or wine farmers with well established and often graceful homes and with much readier access to, and therefore in much closer contact with, the city. It is perhaps regrettable that historical research and writing has tended to concentrate

1. Op. cit., pp. 105-106. Translated.

on the frontier -- inevitably perhaps, because that is where the Great Trek was born, out of which developed the Boer Republics of the north. And the frontier is always the centre of excitement and interest. The less obtrusive influence of the more stable elements of the Western Cape has yet to be examined in full, but it can be safely conjectured that it has been profound. From one point of view it might be suggested that it provided the foundation of an ordered society which made the continuance of government possible at the Cape; from another and more speculative point of view it might be agreed that this region was the birthplace of that spirit of conciliation which, in the end, made Union possible.

3. The Coming of the British

This was the colony then, together with its slave population, its Hottentots (in the Cape, as has often been said, but not of it) and the growing number of Cape Coloureds (a mixture of African, Asian, Hottentot and European blood). Already it was a land of many problems, and it is little wonder that during the first British Occupation (1795-1803) few fundamental changes were made especially as the Cape had been occupied purely for strategic reasons.

By the Treaty of Amiens, 1803, the British restored the Cape to the Batavian Republic, the successor of the old United Provinces. By this time the former great Dutch East India Company had succumbed to an end that had become increasingly

inevitable during the second half of the eighteenth century. Consequently the administration of the Cape fell to the government of the Batavian Republic itself, through its Council for Asiatic Possessions. Its officers, Commissioner-General de Mist and Governor Janssens, embarked upon a programme of thorough-going reform. The general character of this period is judiciously summed up by Walker:

The period of direct rule by the Batavian Republic is one of the most tantalizing in South African history. Looking back over the space of a full hundred years, some regard it as the dawn of a golden age, a dawn all too soon overcast by the second coming of the British. It may be so; but since de Mist, a determined though mild revolutionary of the Aufklärung, resigned after eighteen months partly because he was not prepared to abandon reforms which he admitted were far in advance of public opinion, it is permissible to suggest that the dawn would in any case have been overcast by clouds arising in the interior.¹

Those are indeed strong grounds for believing that many of the conflicts between the government at Cape Town and the Boers of the interior would have arisen as well under a Batavian administration as under a British. That they would have reached breaking-point is, however, rather more doubtful.

At all events, early in 1806 the British once again took command, and in the peace settlement of 1814 the territory was finally ceded to Great Britain. So began the period that Smuts in 1899 was to describe as "A Century of Wrong".²

1. Walker, op.cit., p. 133-4.

2. A pamphlet published on the verge of the outbreak of the Second Anglo-Boer War. Cf. W.K. Hancock: Smuts. Volume 1. The Sanguine Years 1870-1919 (Cambridge 1962) pp. 108-110. This pamphlet was later the cause of both embarrassment and regret to Smuts.

It would be beyond the scope of this essay to detail all the occasions of dispute or even of conflict between the authorities, whether at Cape Town or in London, and the frontier Boers. With the major exception of Sir Charles Somerset's policy of "anglicization",¹ however, they nearly all concerned the treatment of non-European peoples - Hottentots, Bushmen, slaves, Xhosas - thus setting the pattern for differences between English and Afrikaans that endures, to some extent, to this day. It should be emphasized, however, that this probably did not at least initially reflect English liberalism as against Dutch conservatism. For one thing for the first two decades and more the government in power in England could hardly be described as liberal; for another thing, had Dutch rule over the Cape been maintained, its firmer extension and subsequent conflict with the Boers would, as we have seen, probably alike been inevitable.

Considerable dissatisfaction first developed over the position of Hottentots. Here the problems were mainly those connected with vagrancy and the consequent pass laws, with the rights, if any, of Hottentots, to land ownership, with the system of apprenticeship, with relations between master and servant, and with the activities of the London

1. See below, pp. 19-20.

Missionary Society. Barrow tells a story of a frontier Boer being brought before General Vandeleur for having kept a Hottentot boy in leg irons for ten years. The General ordered the rings to be removed and to be fastened instead to the farmer's legs. "For the whole of the first night," Barrow records, "his lamentations were incessant; with a stentorian voice a thousand times he vociferated, 'My God! Is dat un manière om Christian mensch.. to handelen?' ('My God! Is this a way to treat Christians?'). His, however, were not the agonies of bodily pain, but the bursts of rage and resentment on being put on a level with one, as the Boers call them, of the Zwarde natie, between whom and the Christian mensch they conceive the difference to be fully as great as between themselves and their cattle, and whom, indeed, they most commonly honor with the appellation of Zwarde Vee, black cattle."¹

It was under these circumstances that the "Black Circuit" took place in 1812. The Circuit Court system had been set up the previous year in order to make justice more accessible to the outlying dros dies; and the missionaries of the London Missionary Society took the opportunity of its first visit to Graaff-Reinet, Uitenhage and George to lay before the Court large numbers of charges of ill-treatment, even of murder, by the Boer masters

1. Quoted by A. Keppel-Jones, South Africa: A Short History (London 1961), p. 42.
London 3rd ed. 1961. p. 2.

of their Hottentot servants. The missionary mainly responsible, James Read, whom Walker describes as "over-credulous"¹ and Keppel-Jones as "injudicious"² probably did not sufficiently investigate the cases before he brought them to the Court. According to Dr. Grundlingh, more than fifty cases against whites were heard.³ Walker cites seventeen cases of murder, fifteen of violence, and lesser charges of withholding wages and cattle and detaining children.⁴ One of the accused was subsequently sentenced to death by the High Court, but ^{were} was reprieved. Seven more/found guilty of violence and one of assault, and many were convicted on minor counts. But many were acquitted; and the general reaction was less concerned with those convicted, than with those acquitted, and particularly with the fact that the charges had been laid at all. Their indignation, in fact, recalled that of Barrow's Boer who was placed in leg-irons. Dr. Grundlingh's comment perhaps best sums up the Afrikaner point of view:

The "Black Circuit" contributed greatly to the deterioration of the attitude of the colonists towards the British Authority. The Afrikaners felt mortified and insulted by the false accusations of their non-White servants which were subjected to thorough examination while their own complaints against non-Whites mostly received no attention. Their

1. Walker, op. cit., p. 150.

2. Keppel-Jones, op. cit., p. 46.

3. A.J.H. van der Walt et al., op. cit., p. 161.

4. Walker, op. cit., p. 150.

good name was besmirched and a fierce reaction sprang up especially against the missionaries of the London Missionary Society. Long after the sensational court cases a prejudice developed among some people against missionaries as such. The bitterness in the hearts of the colonists did not quickly subside.¹"

Hard on the heels of this "injustice", came the still celebrated affair of Slagter's Nek. F.C. Bezuidenhout, a frontier farmer, was summoned to appear before the court on a charge of cruelty to a Hottentot servant. For two years he defied the order, and in the end a dozen Hottentot troops under a White officer were sent to arrest him. But he preferred to "shoot it out" rather than be taken, and in the resulting firing, he was killed. What shocked the Boers primarily was the use of Hottentots, inconsistently, perhaps, because the use of Hottentots as soldiers went back to Company days, and they had in fact been among the troops that had opposed the British occupation; moreover, the rebels themselves sought the intervention of Gaika, the Xhosa Chief in their campaign against the British. But emotions were aroused, and at the grave of his brother, Johannes Bezuidenhout swore revenge and called on his friends and neighbours to join him. Only about sixty responded, an insignificant handful. The majority were captured without any blood-letting, although Johannes Bezuidenhout escaped with some others to "Kaffirland"

1. Op. cit., p. 164. Translated.

and he himself was killed there. At the subsequent trial 39 were found guilty: 33 of them were given sentences ranging from fines through banishment to other districts to imprisonment, but six were sentenced to death. One of these was reprieved, but the remaining five were hanged in front of their families and friends. To make matters worse, the rope broke and the hanging had to be repeated.

Given the conditions prevailing at that time, the treatment was neither outstandingly harsh nor surprising. Yet the impact of the affair proved long-standing. In spite of the fact that the overwhelming majority of the Boers had stood aloof from the rebellion, their sympathies undoubtedly lay with the rebels; and they were shocked by the whole episode, from the original charge laid against Frederick Bezuidenhout to the final hanging of the five rebels. "The gallows at Slagter's Nek", writes Grundlingh, "cast a long shadow over the history of the Afrikaans people... The effect of the incident was long-lasting and contributed greatly to the turning away of many Afrikaners from the British administration."¹

The population of the Cape received a noticeable forward spurt with the arrival of the 1820 settlers. Five thousand of these settlers were brought out under a state-aided scheme of immigration at a cost to the British Government of £50,000,

1. Op. cit., p. 164. Translated.

and settled in the rural areas of the Eastern Cape. "Unfamiliar conditions", according to de Kiewiet, "made them poor farmers, and blight destroyed their wheat. In the middle of 1823 less than a third of the original 5,000 settlers remained on the land. Most of the rest had drifted to the towns. Thus was founded the significant distinction between the English in South Africa as mainly urban and the Dutch as mainly rural in character."¹ There was the possibility, indeed, that a steady stream of immigration would bring about a colony at the Cape that was predominantly British in population and character as well as in administration; but the main stream of emigration from Britain thereafter bypassed the Cape in favour of Canada and Australia, and it was not until 1902 that Lord Milner dreamed a similar dream, one, too, destined to remain unfulfilled.

But if Somerset could not do much more about the population, he and his successors, could do something about the character of the new colony, and, in their own way, so did the settlers; for they formed the vanguard of the struggle for the freedom of the press and for representative institutions. In this struggle the settlers had many Boer companions; but not so Somerset in his policies. He made English the official

1. C.W. de Kiewiet, A History of South Africa, Social and Economic (London, 1957), p. 39.

language of the Colony - in government offices, in Church, in schools and finally in the Courts. Little wonder, perhaps, that Somerset's name is still coupled with that of Milner as an archenemy of the Afrikaner people, who threatened their very existence as a distinct people.¹ In 1828, too, the whole judicial system of the Cape was reorganized. Some of the reforms were beneficial and necessary, and if English criminal law and procedure were introduced, Roman Dutch law continued to operate in civil cases; but the familiar landdrosts and heemraden were swept away and replaced by English institutions at the local level of justice, i.e. at the level at which the Boers would most commonly come into contact with the law. The effect of these changes together with the use of English in the courts was a sense of estrangement among the Boers from the administration of justice.

Then in 1834 came the abolition of slavery in the Cape as in the rest of the British Empire. Although this was essentially a Whig measure, it had been long expected. In 1807 the traffic in slaves had been stopped, thus adding considerably to the value of existing slaves. The 1820 settlers, to their own resentment, had been forbidden the use of slaves; and between 1823 and 1834 no less than five Orders in Council and fourteen proclamations regulating the treatment of slaves had been issued.² While the end had

1. Cf. G.D. Scholtz., Het die Afrikaanse Volk'n Toekoms?, p. 120.

2. Walker, op. cit., p. 172.

been anticipated, the method of its accomplishment had not.
Nothing like the full value of slaves was paid as compensation,¹ and, to make matters worse, it was payable only in London, partly in cash and partly in 3½ per cent stock. "Many of the Colonists had to face the foreclosing of their mortgages, and even the slave-owners who escaped that fate were hard hit. Townsmen could cash their claims through the banks, but the countrymen were at the mercy of speculators who bought up the vouchers at a heavy discount."² Meanwhile the newly established Legislative Council had passed a law, approved by the Governor, re-instituting the old anti-vagrancy laws that had been repealed, inter alia, by the famous Fiftieth Ordinance of 1828. That Ordinance, the famous missionary, Dr. John Philip, had succeeded in having endorsed as an Order in Council. The Vagrancy Law of 1834 required Royal approval and, inevitably, was disallowed. The emancipation of slaves at the Cape, therefore, came at a time when there was no law controlling vagrancy.

In many of these affairs the Boers discerned the sinister influence of Dr. Philip. He personified for them

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1. Parliament voted £20,000,000 as compensation for the 800,000 slaves in the Empire. Ibid.
 2. Walker, op. cit., p. 174.

the whole missionary humanitarian approach that would place black on the same level as white, heathen as Christian, servant and slave as master; and would leave all at the mercy of the marauding Xhosas. Philip's major apologist, Professor W.M. Macmillan, thus sums up his place in South African history:

Many of his opinions were unpopular and the offence they gave has lived on. The outraged frontiersmen, his contemporaries, denounced Philip and all his works and the descendants dutifully cherished the tradition of the fathers.¹ The view that Philip is responsible for all that went awry in the country's history has thus become a national dogma and, perhaps more than anything else, blinded later generations to the true² significance of those decisive early years.

The troubles of the frontier Boers culminated in the Sixth Kaffir War that broke out in December, 1834, with, according to Grundlingh, the murder of 22 whites, the burning of 456 homes, and the loss of 5,700 horses, 115,000 cattle and 161,000 sheep. The Governor, Sir Benjamin D'Urban, led a counter-expedition with a mixed force of Boers and soldiers, restored peace, and proceeded to annex the "buffer" strip between the Kei and Keishama Rivers as "The Province of Queen Adelaide" in which he admitted the presence both of Boers and peaceable Bantu tribes alike under British administration and law. The Home Government, however, disallowed this action,

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1. Even in the South African history taught in Natal this continues to this day.
 2. W.M. Macmillan, Bantu, Boer and Britain (Oxford, 1963) pp. 22.

and, to the intense frustration of the Boers, restored the 1819 frontier. Once again, Philip and his like were held to blame;¹ and once again the Boers felt helpless in the face of this influence.

4. The Great Trek

The stage was set for the Great Trek, and with it, the opening up of modern South Africa. Much has naturally been written of both the causes and results of this central event in South African history. For some Afrikaners at least, it occupies the same place in the history of the Afrikaans people that the escape of the Israelites from the oppressions of the Egyptians did in the history of the Old Testament; for others, including Macmillan, it was "the great disaster"² of South African history. Between these two extremes there are as many interpretations as there are political opinions in and about South Africa.

Without entering fully into the controversy, we can at least note the major grievances industriously recorded by the Trekkers themselves. Piet Retief, one of the leaders, gave five major reasons in his manifesto: (i) that they despained of any salvation for the Colony from the evils threatened by vagrants who were allowed to roam throughout

1. Philip's rôle in these proceedings was less decisive than imagined. See Macmillan, *op. cit.*, pp. 129-190.

2. F.A. van Jaarsveld: The Afrikaner's Interpretation of South African History (Cape Town. 1964), p. 140.

the Colony at will; under such conditions, they saw little hope for peace and happiness for their children; (ii) that they had suffered substantial losses due to the emancipation of their slaves and the obnoxious laws that had been made with respect to them; (iii) that they had suffered grievous losses through the systematic and persistent plundering of the "Kaffirs" and other coloureds, particularly in the last attack that had ravaged the border districts and ruined the inhabitants; (iv) that they suffered "the unjustifiable odium which has been cast upon us by interested and dishonest persons, under the name of religion, whose testimony is believed in England to the exclusion of all evidence in our favour".¹ Finally, (v) Retief wrote: "We are resolved ... that we will uphold the just principles of liberty; but whilst we will take care that no one shall be held in a state of slavery, it is our determination to maintain such regulations as may suppress crime and preserve proper relations between master and servant."²

J.N. Boshof, a former magistrate's clerk at Graaff-Reinet, divided the grievances of the Trekkers under two heads.³ firstly, despair of the Colony and especially of the Imperial Government induced by: the depreciation of the currency, the emancipation of the slaves and the unfair

1. Quoted by Keppel-Jones, op.cit., p. 66.

2. Quoted by Walker, op. cit., p. 199

3. A.J.H. van der Walt, op. cit., pp. 192-195

method of compensation, the invalidation of the 1834 antivagrancy law, the general belief that "every new law or ordinance in which the black population was concerned betrayed the most tender and paternal care for them, and disregard of the interests of the whites", the losses incurred by the Xhosa invasion of 1834 and the failure of the government to compensate them, the fact that Lord Glenelg blamed the colonists for the outbreak of the war, and the inequitable system of land apportionment recently decided on. Secondly, the improper relationship between master and servant, according to which the master was deprived of the power to discipline his servants himself while if he followed the procedures laid down and complained to the authorities he received no satisfaction, as a result of which the coloured people were encouraged to place themselves on a footing of equality with the whites.

Anna Steenkamp's oft-quoted testimony perfectly exemplifies this attitude. It was not so much the freeing of the slaves "that drove us to such lengths, as their being placed on an equal footing with Christians,¹" contrary to the laws of God and the natural distinction of race and religion, so that it was intolerable for any decent Christian to bow

1. It often seems that the term "Christian" for many Afrikaners indicates a distinction based less on religious faith than on status.

down beneath such a yoke; wherefore we rather withdrew in order to preserve our doctrines in purity."¹

These statements by no means exhaust the list of grievances. As Walker points out, "Apart from the general desire for land, the motives of the Trekkers varied almost from family to family."² Three factors, however, stand out: firstly, the advance north-eastwards along the coast was blocked and there was consequently little prospect of further expansion in that direction; secondly, there was vacant land in the interior, which was known and to which frequent journeys had been made -- the way had been prepared; thirdly, there was widespread dissatisfaction with conditions in the Colony, much of it relating to the British administration and ranging over practically every aspect of government - the "Black Circuit", Slagter's Nek, the "anglicization" policy, the supercession of the familiar agencies of law and administration, the "interference" of the missionaries and their influence on government, and the laws relating to Hottentots, servants and slaves; but also extending to the situation on the frontier of insecurity of life, property and cattle. Economics, politics, religion and the traditions of the trek Boers themselves no doubt all combined to play their part.

1. Quoted by Keppel-Jones, ibid.

2. Op. cit., p. 198.



Was there, however, any deeper, underlying cause? The answer to this question depends, in part, on the interpretation to be given to Retief's parting words: "We quit this Colony under the full assurance that the English Government ... will allow us to govern ourselves without its interference."¹ There is no doubt that eventually out of the Great Trek and the later conflicts in which the republics were engaged developed the concept of the Afrikaner as a separate nation. What is less certain is that these sentiments operated in 1837-8. Van der Walt states that, "The great majority of the white population² began to feel themselves strangers in their own land."³ In similar vein, Keppel-Jones suggests that the "frontiersman suffered from a vague feeling that he no longer 'belonged'; that he was being surrounded by an alien environment and could not freely be himself."⁴ This kind of interpretation is undoubtedly valid; but Preller probably read the stand-point of his own age into this period when he discerns "the clearly defined awareness of a separate Afrikaner nation, of a separate people with its own Language, Religion, Moral Code, History and Tradition."⁵

1. Walker,op.cit.,p. 198.

2. This is probably an over-statement.

3. Op.cit.,p. 196. Translated.

4. Op.cit.,p. 67.

5. G.S. Preller, Piet Retief (7th ed. 1911), p.280. Quoted by F.A. van Jaarsveld,op.cit.,p. 129.



For one thing, while the Voortrekkers numbered at most some 12,000 still the bulk of their compatriots remained behind and remained loyal to the Government (although not uncritical on all points), and for another, the sense of affinity between the trekkers and those who stayed behind remained strong; for another, the history of the republics north of the Orange River at least until the British annexation of the Transvaal is against such an interpretation.

Nevertheless, however strong or weak the cohesive forces among the trekkers might have been, they were at least united on one point, and on this they were quite explicit. This was that, unlike earlier migrants, they were determined to move out of the area of British rule. United they might not be, but independent they were determined they would be. This posed for the government both in Cape Town and in London one of the many problems created by the Trek. Did the Trekkers, once they crossed the Orange River cease to be British subjects or cease to be subject to the laws of the Cape? In law, the answers must be in the negative; but in fact, in terms of the ability to enforce it, the law itself ceased to operate across the borders. And Britain at this time was in no mood to incur the expense of extending the borders. Apart from the native tribes, therefore, the territory into which the trekkers moved was terra nullius.

Across the Orange River, the trekkers fanned out, some up towards the Limpopo to the northern reaches of the present Transvaal, some, seeking a sea-way, struggled through the malaria belt to Delagoa Bay, while yet others, in the same search, going



into Natal, eventually reaching Port Natal (now Durban). For years they were divided by quarrels among their leaders, made the more serious by the establishment of only the most rudimentary form of political organization. For a while Natal became the focus of the trek movement, but not without tragedy. It was to Natal that Piet Retief and Gert Maritz, the elected leaders of the trekkers came, only to be killed by Dingaan, the Zulu king and tyrant. Retief died with a signed deed in his pocket ceding the whole territory of Natal from St. Lucia to the Umzimvubu R.¹ to him and to his followers. Seizing his advantage, Dingaan pressed on to massacre the trekker encampment at Weenen,² and the trekker movement into Natal might have ended, had not the last great leader to leave the Cape, Andries Pretorius, arrived. On December 16, 1838, he inflicted a severe defeat on Dingaan at the Battle of Blood River, as it was subsequently named. The way was thus cleared for the permanent settlement of Natal.

5. Contact and Conflict

If the Boers, having at least temporarily dealt with the Bantu, now hoped for tranquillity in which to establish their own "way of life", they were soon to be disappointed; for in Natal they again came up against the third point of the eternal South African triangle, the British. A small British settlement had been established at Port Natal as long ago as 1824, and in 1835 the town was tactfully renamed D'Urban and a resident appointed as magistrate; but this was a move merely to extend the arm of the law, not to annex the port. Nor was this intention altered by the temporary presence of a small force of British

1. This represents some 300 miles of coast-line, and extended S.W. to not much more than 100 miles from the Kei R., thus pressing uncomfortably close to the Cape's troubled frontier.

2. "The place of weeping".

troops there during 1839. In spite of the refusal of the British government to consider annexation, there was nevertheless an undeniable British "presence" at the coveted Natal port by the time the trekkers had sufficiently subdued the Zulus to enable them to set up the Republic of Natal, with Pietermaritzburg as the seat of government. This was in October 1838, and although in some ways this was "a continuation" of an earlier attempt at regulation "with additional rules to meet new circumstances",¹ nevertheless it represented the first stabilized order achieved by the Trekkers, and eventually a loose federation was established with the republics of the North.

It was at about this time that the British authorities, notably the Secretary of State for Colonies and Napier, the Governor of the Cape, began a slow and hesitant minuet, in which the two were by no means always in step, over the annexation of Natal. Eventually the combined forces of humanitarian motives and commercial and strategic interests were strong enough to accomplish the deed. Before it was over, Boer and Briton had clashed and the Boers nearly succeeded in driving the British troops to surrender.² But it still took another three years before the annexation formally took place, not, however, as a separate colony, but as a detached district of the Cape under a Lieutenant-Governor.³

1. Walker, op.cit., p. 209.

2. The British were saved only by an heroic 600 mile ride by horse from Durban to Grahamstown by the still honoured Dick King.

3. Natal became a Crown Colony only in 1856.

Not long after this a new force made its appearance in the form of Major-General Sir Harry Smith whose tempestuous but charming personality still survives the aridity of school text-books. If his policy had been persisted with the subsequent history of South Africa would not only have been different, it would almost certainly have been also more cheerful. This policy is summed up with both brevity and insight by de Kiewiet, and one can do no better than quote him.

Smith, he writes, had had the conviction that the best way to deal with the troublesome people was to take over their land and rule them. Out of defeated Kaffirland¹ he carved a new Cape district called Victoria East and a fresh Crown Colony called British Kaffraria. To the tribes thus made British subjects he assigned reserves under the supervision of magistrates; for the farmers there was new land. The frontier was gone, and so was the policy of keeping whites and blacks apart There was an end ... to the belief that Kaffr tribes should be treated as sovereign States. Sir Harry Smith saw that such a belief prevented the extension of the rule of law to the interlocked elements on the frontier

Then Sir Harry Smith annexed the Orange River Territory All the Kaffir frontier from Natal down to the Eastern Frontier by way of Basutoland was now British But Downing Street beheld this addition of a new province with uneasiness ... The humanitarian conscience of Downing Street was now less ardent and less sensitive Its action was more intermittent, and it hearkened more often to the protest of the Chancellor of the Exchequer.... The struggle between ethics and politics, between right and expediency had begun If British policy were to control the destiny of the sub-continent then Sir Harry Smith's move had been excellently devised. But to those who subjected Sir Harry Smith's daring settlement to the severest scrutiny economy meant more than strategy.

1. After the Seventh Kaffir War of 1846.

2. C.W. de Kiewiet, op. cit., pp. 63-65.

Sir Harry Smith's annexation of Transorangia as the Orange River Sovereignty might have proved permanent had it not been for Moshesh, King of the Basutos, whom even the Afrikaans historian, I.D. Bosman, describes as a "farsighted statesman".¹ For once, Moshesh over-reached himself. He might have fared better had British rule continued, although, his final success can perhaps be measured by the forthcoming independance of Basutoland. Before his defeat of the British troops at Berea took place and finally gave the British Government the excuse it wanted to withdraw from the Sovereignty, it had had to face opposition from the Boers themselves. This was not as severe as might have been expected, but that it manifested itself at all was contrary to Smith's hopes and expectations.

At first all went reasonably well. Those who bitterly opposed the move followed the example of the independence-minded Boers of Natal, Pretorius included, who had either withdrawn to the Transvaal or to the Boer republic in Utrecht (now in North Natal). And in their place came both British settlers or "loyal Dutch" from the Cape. Pretorius' attempt to drive the British out of Transorangia failed in the short but sharp engagement at Boomplaats. But that at least produced the Sand River Convention of 1852, whereby the independence of the Boers across the Vaal was finally recognized although they remained bitterly divided among themselves and shared only their common opposition to the British.

1. In A.J.H. van der Walt. et al., op. cit., p. 245.

If Boomplaats and what had gone before it had proved disturbing, Berea proved decisive. Smith had now been replaced. The British Government was alarmed by the thought of yet further frontier wars with Basutoland and the effect they would have on the exchequer. Sir George Cathcart willingly proceeded to fulfil his instructions and withdraw. Now, however the opposition was on the other side. At a representative conference called by Cathcart's representative, Sir George Clark, in Bloemfontein, although only 19 out of the total of 95 were English-speaking, the majority opposed ¹ British withdrawal. These, however, were regarded as mere "obstructionists" and dismissed. Instead, Sir George Clark turned to a group of republicans, and, in spite of the protests in London of the delegates of the "obstructionists", the Bloemfontein Convention was signed in February 1854. Aut tempora aut mores.² It was as well for Dr. Philip that he was dead; he would have been more than discomfited.

As a result of the Bloemfontein Convention, the freedom and independence of what now became the Orange Free State was recognized. Thereupon the Free Staters set their brothers across the Vaal an example in constitution-making as well as in achieving unity. Using the United States Constitution as a guide, though not as a Bible, the new Constitution provided for a "real civil executive ... for the first time since Retief's short-lived Governorship and Council of Policy."³ The State President was to be elected by

1. I.D. Bosman, op. cit., p. 246.

2. Cf. the comment by de Kiewiet: "The Great Trek had conquered. South Africa was a land divided." Op. cit., p. 66.

3. Walker, op. cit., p. 260.

popular vote for a fixed term of five years; he was removable only by a three-fourths vote in the Volksraad; he could sit in the Volksraad but not vote; his declarations of war and of peace had to be ratified by the Volksraad; he was provided with an Executive Council of five consisting of two officials and three members of the Volksraad, and by a Krygsraad or War Council consisting of elected commandants and field cornets; but only in time of war was there to be a Commandant-General the example of rival factions across the Vaal was a powerful deterrent to making the office permanent. The Volksraad was made the supreme legislative body. It consisted of twenty-nine members elected on the basis of a manhood (European) suffrage. The institution of landdrosts and heemraden was revived, with instruction to administer Roman Dutch Law. The whole constitution was made extremely rigid, requiring for its amendment a three-fourths majority in three successive sessions. With the election of Hoffman as the first President, the Orange Free State Republic was launched.

Meanwhile in the Transvaal, division and confusion still prevailed. Finally in 1856 a constitution for "The South African Republic" was adopted, and in 1857 Marthinus Pretorius¹ was elected its first President. But Lydenburg,

1. The son of the old Trek leader, Andries Pretorius. Patgieter was the founder of a rival dynasty in the Zoutpansberg.

joined by Utrecht, stayed firm; and even nominal unity was not achieved until 1860. The Transvaal constitution provided for institutions of government similar to those of those of the Free State, but with a Commandant-General as a permanent officer. Moreover the constitution itself was so flexible that according to Walker, "to the very end of the Republic, it was a matter of hot debate whether or no the popularly elected Volksraad had the power to amend the Grondwet by mere resolution."¹ Direct democracy indeed was its characteristic feature and it was not uncommon, at least in the early years, for members of the public who happened to be present to be asked to give their opinions on matters under debate.

It is of much interest in the light of the later Uitlander conflict to note that the citizenship laws of the S.A.R. as well as of the O.F.S. were extremely generous. A white skin was, of course, required and an oath of allegiance, but a land-owner in the S.A.R. required no term of residence, and in the O.F.S. only one year. Without land, a year's residence was required in the S.A.R. and three years in the O.F.S.²

The constitutions the two republics thus gained by no means solved their problems. In particular, Pretorius was still beset by rivalries and divisions in the Transvaal,

1. Op. cit., p. 267.

2. Keppel-Jones, op. cit., p. 81.

and in reaction his mind turned yearningly to the prospect of a union of all Afrikaner¹ republics and he impetuously tried to thrust his plans down the Free State's throat. And persistently the O.F.S. was threatened by the Basutos and by the Batlapin beyond, or almost beyond, its slender means of resistance. In the end it took ten years of turbulence after the Bloemfontien Convention before the situation in the republics became to any real degree stabilized.

Marthinus Pretorius had not long been elected President of the S.A.R. when he first tried to realize his dream. In the Transvaal the Grondwet had been rejected by both Soutpansberg and Lydenburg; so, to hurry the process of unification, Pretorius turned to the O.F.S., and there he tried to force the issue. But Boshof, the new President, would have none of it and charged those who had supported Pretorius with sedition. Pretorius returned and the forces of the two republics faced each other across the Rhenoster River, ready for battle, when the diplomacy of young Paul Kruger saved the day. Each President recognized the independence of the other republic. Pretorius returned to the Transvaal, where he was more successful, gaining the adherence of Soutpansberg at last to his republic.

Moshesh chose this juncture to strike once more. Sir George Grey, the Governor at the Cape, was sending troops away to assist in the Indian Mutiny, and the Trekker republics seemed hopelessly divided. His action, however, helped to unite them and a combined force from the Free State and Transvaal

first dealt with the troublesome Batlapin and then threatened the Basuto. However, they waited upon Sir George Grey. Two matters claimed his attention. The first was a petition for the union of the two republics. On this matter, Grey had his own plans; for he was convinced of the need for a federation of all the white territories in South Africa, and he feared that republican solidarity would stand in the way of this plan. It would be easier to draw the O.F.S. in than the South African Republic, but once the Cape, Natal and the O.F.S. were federated it would be difficult for the S.A.R. to stand apart. Grey was, therefore, determined to avoid a union of the republics, and accordingly warned the two presidents that their union might be considered a contravention of the Conventions of Sand River and Bloemfontein. This proved a powerful deterrent and the move came to nothing. On the other matter, the Basutos, Grey hopefully secured the signing of the Treaty of Aliwal North by Moshesh and Boshof settling, pro. tem., the boundary question and claims for compensation.

Back in Cape Town, Grey continued to press for federation. The Home Government, beset by so many problems as it was, was more than uninterested; it was positively averse to the whole idea. Lytton, the Colonial Secretary, expressed himself bluntly: "In a federation with these Dutch republics we have much to risk and nothing to gain. We reverse in it the old story of the giant and the dwarf, in which the dwarf gets the wounds and the giant the profit. It seems to me that here the dwarf would be thrusting his Dutch nose into all sorts of black squabbles from which the British giant would

always have to pull him out with the certainty of more kicks than halfpence."¹ This was, of course, before either gold or diamonds had been discovered. The ambivalence - or perhaps more accurately, the weakness - of the O.F.S. is demonstrated by the way it turned first this way then that. Union with the S.A.R. having proved impossible, it now requested federation along the lines suggested by Grey; but to no avail. Grey was recalled, and when he was sent back in 1860 it was "on condition that no more was heard of federation."²

Back the Free Staters now turned to the S.A.R.. Boshof resigned, and Pretorius was now elected President of the O.F.S. as well. Dynastic union seemed the prelude to political union, but Pretorius, like many a wandering statesman, was, to use the phrase not exactly coined by Ernie Bevin, "stabbed in the back". Indeed, across the Vaal, after charges and counter-charges of sedition, affairs reached the pitch where open warfare was only narrowly averted. Eventually, in 1863, Pretorius resigned the presidency of the O.F.S. and in January 1864, Pretorius was finally able to consolidate his position in the S.A.R. In the following month J.H. Brand, with his strong Cape connections,³ was elected President of the O.F.S. The major political divisions of South Africa were at last stabilized, although the lines of alliance were not.

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1. Quoted by D.W. Kruger, "Britse Kolonies en Boire - republieke, 1854-1872", in A.J.H. van der Walt., op. cit., p. 260.
 2. Walker., op. cit., p. 293.
 3. He had been a member of the Cape Parliament, and his father was Speaker of that House.

As far as the Free State was concerned, successive acts of British policy resulted in its final identification with the Transvaal cause, and its alienation from British imperialism; while the Transvaal was driven from bitterness to desperation. The two acts which initially caused Free State resentment were firstly the British annexation of Basutoland and its proclamation as a protectorate in 1868-9 and secondly the annexation of the Diamond Fields. The first came after the O.F.S. was at last getting the better of Moshesh. The result is described by D.W. Kruger: "the Free Staters were on the whole bitterly dissatisfied over the unasked-for British intervention. An anti-British sentiment began to develop, and from then on the paths of the Cape Colony and the Free State diverged ever further."¹ On this occasion it was differing policies with regard to the Blacks that divided the British and the Boers. The division was further intensified by the British annexation of the recently discovered diamond fields to which the O.F.S. laid claim. This claim was based on prescription, the O.F.S. having actually occupied and administered the territory for many years. On the other hand, Waterboer, the Criqua chief, claimed the territory on the basis of treaties. He applied for protection, and Barkly, the Governor of the Cape, accepting his claim, annexed the disputed area. Later it was discovered

1. Op. cit., p. 270. Translated.

that the claim was spurious and a sum of £90,000 was offered to Brand as compensation; and he had no real option but to accept. The whole episode, however, smacked of being a trumped up affair, and the Free Staters felt thoroughly cheated. "The historian Theal," Keppel-Jones records, "who lived through this experience, thought a generation later that this annexation had done more to embitter relations between the two white communities than any other single event".¹ On the other hand, both these events were not without advantage to the Free State. As a result of the first, the border wars came to an end and the Free State farmers secured the benefits of a large reservoir of labour. As a result of the second, as D.W. Kruger notes, the O.F.S. was at least saved . the emergence of an Uitlander problem, and with a large market at its doorstep its farmers rapidly prospered.

Meanwhile the S.A.R. had its own border dispute also with diamonds as the prize. Pretorius, unlike Brand, agreed to arbitration with Keate, Lieutenant-Governor of Natal, all on his own authority. On the whole, the Award was unfavourable to the S.A.R., and an angry Volksraad induced Pretorius to resign, replacing him with the Rev. Thomas Burgers. In the Cape, on the other hand, constitutional advance took place with the granting of responsible government in 1872. John Molteno became the first Prime Minister, with considerable Dutch support.

l. Op. cit., p. 95.

This was the stage on which Lord Carnarvon sought to produce a South African federation on the Canadian model. Now, however, when the Imperial Government embraced the idea, the mood in the South African territories was against it. Brand was wholly opposed to the idea, and since the Cape Dutch sympathized with his attitude, Molteno could hardly support it. Burgers, too, was opposed, being imbued with his predecessor's dream of a united South African republic. Natal was at best lukewarm. In the end after a particularly tactless campaign, a conference was held in London; but so unrepresentative was it that it might as well have not sat. The outcome was a Permissive Act, and while it was in principle approved in Natal, it met with no other response. Clearly, if closer union were to come it could only be much later.

Indeed, the next British action ,while it was probably intended in part to hasten the process, in the event virtually insured its prolonged postponement. This was the annexation of the Transvaal, one of the really critical acts in South African history. Perhaps if it had been persisted with things might have turned out more favourably; but it was undertaken in haste and abandoned without dignity. And in its wake it left a flood of bitter Afrikaner nationalism that has perhaps not even now subsided. At the time, it seemed justified apart from the hope of closer union. The people of the S.A.R. were still too divided to maintain an effective government. The government, in fact, was on the verge of bankruptcy, and

there seemed little hope of improvement. Burger's own commandos had so little confidence in his leadership that they quietly dispersed back to their homes when he tried to lead an expedition against Sekukuni. Finally there were ominous signs of a Zulu attack on the Transvaal. Nevertheless, the British representative, Shepstone from Natal, exceeded his mandate, which was to annex the Transvaal only if immediately necessary. The turmoil in Pretoria that surrounded his advent, should perhaps have persuaded him to pause, but he rashly raised the Union Jack. In fact the one condition on which annexation could succeed was lacking, the co-operation of the Boers. Their hostility was so patent, that it was clearly impossible to grant representative, let alone responsible, government to the Transvaal. The regime, therefore, was based on little else but force.

6. The First Anglo-Boer War.

As it was, the Annexation and the First Anglo-Boer War¹ marked a turning point in the history of the Afrikaner people and therefore in the history of Anglo-Afrikaner relations. For it was this period that, according to F.A. van Jaarsveld, marked the full development of an Afrikaner nationalism.² A few quotations from a shorter essay of his will be sufficient to indicate the impact of these years on the Afrikaners.

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1. Referred to by Afrikaners as the first Vryheidsoorlog, or the War of Liberation.
 2. See F.A. van Jaarsveld, The Awakening of Afrikaner Nationalism, 1868-1881 (Cape Town, 1961), passim.

In 1871 we read of "the yoke of Pharaoh" and in 1882 the Rev. S.J. du Toit declared that the English were their 'chastisers' and that through the former's acts of oppression the Afrikaners had become a nation. He asked: "Who has taught us a sense of unity as a people?", and supplied the answer: "None but England by her oppressions. Who has aroused a spirit of fraternity and patriotism throughout South Africa? None but England through the blows of her lash. (1)

He quotes a report of a speech by President Pretorius in 1871: "His Excellency then addressed himself to the original Voortrekkers, calling them Fathers of Israel, and depicting and likening them to the chosen of the Lord,² who even as the Israelites had trekked from Egypt to escape Pharaoh's yoke, had themselves withdrawn from the yoke of the detestable English Government to found their own Government and administration."³"

It is noticeable that the sense of Afrikaner unity now developing had this enemy, the English Government, on which to fasten; but more than that, the Trek served as a symbol whereby they might identify themselves as God's chosen people with a unique and divine mission. Insofar, then,

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1. F.A. van Jaarsveld, The Afrikaner's Interpretation of South African History (Cape Town, 1964), p. 9.
 2. This has been and still is the dominant image that the Afrikaner has of himself.
 3. Ibid, p. 11.

as England opposed them, it opposed the work of God.

Political enmity received a religious sanction, and the latter inspired a sense of invincibility, for "If God be with us, who can stand against us?"

The sense of Afrikaner nationalism, moreover, was not confined to the Transvaal. In the long run, its most important aspect was that it evoked a sense of volkseenheid throughout South Africa. As an Afrikaner journal expressed it in 1898, "the war of Liberation and nothing less was necessary to create and animate a national feeling in South Africa."¹

"It was in these years too," writes van Jaarsveld, "that the Afrikaner Bond in the Cape Colony propagated the idea of a free and independent South Africa. The slogan was 'Africa for the Afrikaners'.² In the Transvaal this sentiment was echoed in the much-quoted words of Pres. Kruger (in reality coined by Dr. Jorissen): 'Whether we conquer or whether we perish, Freedom will emerge in Africa... as surely as the sun rises out of the morning clouds. And then from the Zambezi to Simon's Bay it will be a case of Africa for the Afrikaner' ... During that war (of 1880-1) many Afrikaners turned their thoughts to their mission... A group of Transvalers proclaimed that 'God rules and is with us. It is His will that we³ should unite as one

1. Quoted by van Jaarsveld, op. cit., p. 11.

2. The narrow and aggressive Afrikaner nationalism of the early Bond was later abandoned under the leadership of J.H. (Onze Jan) Hofmeyr, being replaced by a spirit of conciliation.

3. I.e. the Afrikaners.

nation and create a unified South Africa that is free of British authority. The future lies with us!"¹

After Annexation, events certainly favoured the Afrikaners. For one thing at the battle of Ulundi the British forces finally crushed the Zulus and thus removed what had been a grave threat to the little Republic; for another, Gladstone, who had opposed the annexation, came into power in 1880. Towards the close of the same year, a dispute over taxes flared into open rebellion. Neither side was anxious to prolong the ensuing war, and although there were several engagements, it is memorable for only one battle, the Battle of Majuba, in which the British were decisively defeated. An armistice was thereafter quickly arranged, and by the subsequent Pretoria Convention, the Transvaal was given "complete self-government, subject to the suzerainty of Her Majesty" - an over-vague term, even if it was given some concrete meaning in the ensuing clauses.²

When the Transvaal was, in effect, surrendered it was still weak and still disturbed by political disputes; British policy, too, was still in general opposed to undertaking further responsibilities in Southern Africa. All this rapidly changed. British policy was radically reviewed after Germany had rushed in where Britain and the Cape had feared to tread and annexed what became South West Africa. That was in 1884; and in rapid succession thereafter Britain annexed Zululand,

1. Ibid., p. 19.

2. See Keppel-Jones., op.cit., p. 111-112. These terms were amended in London in 1884. Ibid.

Pondoland and Bechuanaland. When Swaziland was annexed later, in 1895, the Afrikaner republics were finally denied their own access to the sea. Meanwhile the great metamorphosis of the Transvaal began; for in 1886 the "greatest gold-mines of all history, ancient and modern"¹ were discovered on the Witwatersrand.

7. Gold on the Rand.

The subsequent importance of gold to the South African economy is well-known. Materially South Africa would have been a completely different country without it. And so it would have been politically as well; for where the diamond fields led to serious friction between Britain and the Free State, gold brought in its train a sequence of events that was to lead to an explosion, completing the unhappy work begun by the Annexation. It must be remembered that at this time the people of the Transvaal were predominantly agriculturalists and pastoralists, in attitude and spirit still the people of the Trek.² The gold of the Rand, moreover, was embedded in quartz and its extraction required capital, machinery and organization. None of these things could be provided by the Boers themselves. On the other hand, the diamond magnates such as Cecil Rhodes

1. de Kiewiet, op. cit., p. 114.

2. As late as 1881-2 minor treks moved into a part of Zululand on the one hand and to the West on the other, in the latter area establishing the tiny republics of Stellaland and Goshen. de Kiewiet, op. cit., p. 111.

could provide capital and organization and could soon move in the necessary machinery. The Boers had to stand by, therefore, and watch the newcomers mine their fields and reap the profits. Not that the benefits were confined to the magnates; indeed, they rescued the whole of the Transvaal economy. "In 1884", de Kiewiet points out," the Transvaal was barely solvent; three years later, in 1887, its revenue of £638,000 approached that of Natal; two years later again its revenue of £1,500,000 was in hot pursuit of that of the Cape. For every reluctant pound which the Transvaal had to spend in 1883 it had twenty-five pounds in 1895, gathered from stamp duties, land transfers, concessions, property and claim licences, and customs payments. The fairy godmother was clearly gold; for in 1896 gold accounted for 97 per cent of Transvaal exports."¹"

The crucial question was whether the old Trekker republic could retain its distinctive identity. At least in some respects it was certainly doomed. All possibility of living in rugged and isolated splendour was gone. In order to maintain at least his independence, Kruger pushed forward a railroad connection with Delagoa Bay, but the rails from the Cape and from Natal kept pace with it. The Cape-Rand line was opened in 1892, the Delagoa line in 1894 and the

1. Op. cit., p. 119.

Natal line reached the Rand in 1895.¹ Almost inevitably, politics was involved, and there followed a series of hotly-disputed wrangles over freight charges and custom tariffs. Kruger called in German and Hollander advisers whose politics was not a priori favourable to Britain. But the most bitter political conflict began as an internal conflict, this being over the rights of the Uitlanders.²

The Uitlanders had a number of specific grievances, but these were all secondary to the citizenship issue. The very suddenness and scale of immigration resulted in the passing of laws that were more and more restrictive: "At last it became impossible for an immigrant to get [the vote] till he had been fourteen years in the republic, twelve years a naturalised subject [having lost his previous nationality] and at least forty years old; and even then he would not vote in presidential elections... Moreover, while denied the rights of citizenship, they were expected to shoulder its obligations."³

Kruger's position was dictated by the need to save what he could of the spirit of the Trekker republic from the invasion. His was the common human desire to eat his cake and still to have it. Thus while he cheerfully drained off to

1. Ibid, p. 125.

2. "Outlanders" or aliens.

3. Keppel-Jones, op. cit., p. 123.

the republic's exchequer as much in the way of licences, taxes, etc., that he could, he sought to isolate the Uitlanders as a society within a society as a means to maintain the purity of the language, doctrine, traditions and way of life of the Afrikaner people. He did not intend that having saved his people from the scourge of the Pharaohs, he should let them be absorbed into the ranks of the Philistines. And he had cause to be anxious, for by 1895 there were seven ¹ Uitlanders to every three burghers. This fact represented as grave a threat to the republic as annexation had been.

Or was it? In the Cape the Dutch and English were groping towards a modus vivendi: "Under Hofmeyr's leadership Dutch public opinion became a powerful force in Cape politics. In 1882 an amendment of the Constitution Ordinance permitted the use of Dutch in Parliament. At the same time instruction through the medium of the Dutch language was introduced in certain grades of schools. In 1884 Dutch and English were placed on an equal footing in magistrates' courts, and all public bills and papers were submitted to Parliament in both languages."² Here was an example that acted as an incentive to the Uitlanders and as encouragement to the Afrikaner elements that criticized Kruger's intransigence in the Transvaal itself. In the end, the reform movement might well have succeeded, for Kruger's position was by no means secure. The point is made in dramatic, perhaps

1. de Kiewiet.,op. cit., p. 132. Many of these, however, were from the Cape and Natal.

2. Ibid., p. 126.

slightly over-dramatic, form by de Kiewiet: "On Christmas Day of 1895 none could yet say that there was no hope of an early end to the quarrels over railways and votes, tariffs and monopolies. On New Year's Day of 1896 the future was blank of the slightest hope."¹ His assessment of the significance of the Jameson Raid that wrought this change, is, however, beyond criticism: "The raid is a story woven of such stupidities that it might be dismissed as a farce were it not so tragic in the damage which it wrought. It was inexcusable in its folly and unforgivable in its consequences."² What made matters so very much worse was that Rhodes, then Prime Minister of the Cape, Joseph Chamberlain, the Colonial Secretary, and Sir H. Robinson, the High Commissioner, were all implicated.

The causes of the Raid and the motives of those who took part are less relevant to present purposes than its consequences. These may be summed up under two main heads: a further increase in the sense of Afrikaner unity, and a widening of the gulf between Boer and Briton. To no one could the Raid have come as a greater shock than to "Onze Jan" Hofmeyr. It led to a permanent split between him and Rhodes; and the Bond swung once more to a more exclusive Afrikaner objective. At the Bond Congress at Burgersdorp, F.S. Malan

1. Op. cit., p. 135.

2. Ibid.

described the Raid as "a treacherous attack, not only on the South African Republic but on the whole Afrikaner nationality."¹ The effect in the Cape was to divide the Colony at least temporarily on racial (or more accurately, linguistic) lines. In the O.F.S. the reaction of the Afrikaner majority was similar: an awakened sense of Afrikaner unity, the election of Steyn as President and the defeat of Fraser, and a final orientation towards the Transvaal rather than towards the Cape. This was epitomised by the defensive alliance entered into by the two republics. The new High Commissioner, moreover, was Sir Alfred Milner, destined to become one of the most hated Englishmen in Afrikaner history. "South Africa", concludes Wiid, "stood at the eve of great disaster [onheil]"²

8. The Second Anglo-Boer War

The disaster was not so much the war itself as the long-enduring bitterness it evoked. It was the climax of thirty years of conflict with the British authorities, years of growing resentment and therefore of increasing intransigence. Primarily the war came because on both sides there was a lack of desire for conciliation and a lack of belief in the good faith of the other. The immediate cause of conflict continued to centre on the political and civil rights of the Uitlanders, but mixed up with this issue were such matters as British

1. Quoted by J.A. Wied in A.J.H. van der Walt et al., op. cit., p. 348. Translated from the Netherlands.

2. Ibid., p. 349.

hegemony, the ideal of a federation -- for some under the Union Jack, for others under the Verkleur of the S.A.R., the dynamite monopoly, Boer independence, matters "great and small", many of them with roots sixty or more years long.

Moreover the way in which the war proceeded yielded a further load of bitterness. After initial set-backs, the British troops (including troops from Canada and Australia) were by the end of the first year, all but victorious. Both the O.F.S. and the Transvaal were annexed and their former governments dispersed. Had the war ended then subsequent history might well have taken a different turn; for so far it had been fought with some respect for the ancient concept of chivalry. Instead it continued into its most bitter phase and for a further year and a half while the Boers, under such leaders as Botha, Smuts, de la Rey and de Wet, raided and harassed the British, and the British retaliated by burning the farms and placing women and children in "concentration camps". The latter acts remain a vivid memory to the Afrikaner, and there are still many who fervently believe that the 26,000 women and children who died were deliberately poisoned with powdered glass. The large number of deaths, due in fact to poor sanitation and disease, was sufficient indictment of the "scorched earth" policy without further embellishment. And without this tragic consequence the policy itself, as Milner appreciated, was dangerous, indeed foolhardy. For these farms were the means of livelihood of the Boers; without their farms and their

cattle they had nothing. To what, then, would they return when the war was over? Yet to Kitchener, the policy was essential as the only effective means of countering the guerilla tactics of the Boers.

The tragedy of the situation lay in the determination of both sides, each to stand firm on its chosen ground. Prima facie it is astounding that men like Botha and Smuts, who spent their later lives in seeking reconciliation, should have persisted with the war beyond the point where reconciliation would have proved a reasonably feasible goal. Did they then consider the problems that were being created for a South Africa in which Boer and Briton would still have to live together? Or, considering it, did they believe that only if the Boer first saved his independence could future co-operation be possible? Or was independence simply regarded as an end in itself?¹ Perhaps the answer lies in the Afrikaners' ever-present, over-sensitive fear of the extermination or extinction of the Afrikaner yolk.

The British, however, were at least equally to blame. If Kitchener was responsible for the farm-burnings, he it was, too, who would have secured an early peace if he could have had his way. At a conference at Middelburg in March 1901,

1. Cf. Smuts' words at Vereeniging, "We commenced the struggle and continued it to this moment, because we wished to maintain our independence; and were prepared to sacrifice everything for it." Quoted in Hancock, op.cit., p. 162.

he and Milner offered Botha generous terms including progress to self-government. But Milner would not agree, as Kitchener would, to an amnesty to rebels, and he persuaded the Government to his point of view. Kitchener commented at the time, "We are now carrying the war on to put two or three hundred Dutchmen in prison at the end of it ... I wonder the Chancellor of the Exchequer did not have a fit."¹ His later judgment did not alter. In a letter to Smuts in 1911, Botha wrote that Kitchener "now says that if England had listened to him and to me at the Middelburg negotiations, we would have saved England some £100,000 and thousands of lives...."² South Africa, too, would have benefitted.

So the war dragged to its end and the Peace of Vereeniging. If it was at the cost of bitterness and distrust between Afrikaner and English, it also was at the cost of a new division in the ranks of the Afrikaners themselves - that between the "bitter-enders" and the "loyal Dutch", those who either remained at worst loyal, at best neutral, particularly in the Cape, and those who in the last twelve months or so crossed sides and served the British. To the "bitter-enders" the "loyal Dutch" were the worst kind of traitors; and the hatred and contempt they aroused

1. Quoted by Walker, op. cit., p. 495.

2. Quoted in W.K. Hancock, op. cit., p. 128.

has proved so durable that the term still remains effective in the currency of political abuse. It also explains why the charge of being a traitor to Afrikanerdom has such a venomous connotation.

9. Peace

The Peace treaty itself was neither punitive nor vindictive. The republics, of course, lost their independence and nothing could really compensate for that. But "the British Government promised £3,000,000 to repair the ravages of war, a large development loan free of interest for two years and full responsible government before any Native franchise was given."¹ Meanwhile the republics were declared Crown Colonies and Milner, as High Commissioner had full power. The task confronting him was appalling. "Forty-five thousand Uitlanders had already returned to the Rand; but, beside the 200,000 troops, colonial volunteers and irregulars waiting to be sent away or reabsorbed in civil life, there were 32,000 Boers in prison camps, and 110,000 more of all ages and sexes and nearly 100,000 natives in the concentration camps to be restored to what was left of their homes. It was mid-winter; grazing was scarce and the transport cattle riddled with new or indigenous diseases; the Army drove hard bargains for much-needed supplies; crowded troop-trains blocked refugee

1. Walker, op. cit., p. 504.

trains toiling up the single lines of worn-out railway
to the High Veld; drought came in November."¹

However hard Milner struggled with the problems of rehabilitation, large-scale hardship under these conditions was inevitable. It was also probably inevitable that it should be a source of discontent and resentment against the régime. Unfortunately, Milner's subsequent policy served only to keep the wounds of defeat and humiliation open. The ultimate purpose as well as the immediate objectives of this policy are well expressed by Hancock:

...what mattered was the vision of a family of nations living together in freedom and brotherhood within the circle of the Crown.

Milner's vision was spacious; but it contained one fatal flaw. His family of nations, when one looked at it more closely, became a consortium directed by 'the British race'. ... In two sentences ... he revealed in frank crudity his inner-most purpose. 'If, ten years hence, there are three men of British race to two of Dutch, the country will be safe and prosperous. If there are three of Dutch to two of British we shall have perpetual difficulty...' "

In the light of this purpose, all Milner's policies, - economic, educational, constitutional - became charged with a new, and to the Boers, a sinister, meaning. Economic development becomes the means of promoting an inflow of settlers to establish British numerical preponderance over the Boers. Educational development became the means of winning Boer children from their mother-tongue and filling their heads with British ideas about the past and future of their nation. Constitutional

1. Ibid.

development - but, of course, it must wait (despite the half-promise given at Vereeniging) until Lord Milner had sufficiently swamped and denationalized the Afrikaner people.¹

In the end, Milner's policies would stand or fall depending on whether he succeeded in persuading sufficient British and colonial immigrants to settle in the country in order to tip the numerical scales against the Boers. It was barely conceivable, although even then improbable, that the minority might under a rigorous and persistent policy become assimilated to the majority; it was, under any circumstances, inconceivable that the majority should become assimilated to the minority, especially when such a hardy race-consciousness flourished among that majority.² Since Milner's hoped-for flood of settlers failed to materialize, his policy was doomed to failure. Having been tried and having failed, it added yet another cause for bitterness and for a re-active nationalism. Few of his compatriots were able to match the conciliatory, even forgiving, words of Smuts when Milner retired: "I am afraid you have not liked us; but I cherish the hope that, as our memories grow mellower and the nobler features of our respective ideals become clearer, we shall more appreciate

1. Hancock, op. cit., pp. 174-5.

2. It is true nevertheless that this fear of assimilation or "anglicization" remains an active nightmare to the Afrikaner nationalist.

the contribution of each to the formation of that happier South Africa which is surely coming, and judge more kindly of each other."¹ And perhaps no other passage more fully illustrates both the conciliatory spirit and the optimism that characterized the attitudes and policies of both Smuts and Botha. Without them, the formation of the Union would almost certainly have been delayed; with them, the Union got off to a good start - at least as far as the white races were concerned.

Before Union could become a practicable proposition, however, there had to be an equalization of status among the four colonies. Milner, ruthless as ever when in pursuit of an ideal, had proposed the suspension of the Cape constitution. The Liberal Government under Campbell-Bannerman chose the more generous path of granting responsible government to the former republics: to the Transvaal in 1906, and to the O.F.S. (or Orange River Colony as it then was) in 1907. "They gave us back in everything but name - our country. Has such a miracle of trust and magnanimity, Smuts asked, "ever happened before?"²

Nicholas Mansergh enquires pertinently whether there were costs to this magnanimity - to be born by English-speaking South Africans and by the non-white population. As to the

1. Quoted in Hancock, op. cit., p. 198.

2. Quoted in Nicholas Mansergh South Africa 1906-1961: The Price of Magnanimity (London, 1962), p. 30.

former, he quotes Lord Selborne's despatch to Lord Elgin in which he prophesied the faithfulness at the polls of "every Boer who is not bed-ridden" to his leaders, and the ideal they would always entertain was of "a United Republic of South Africa, to which British Colonials will be gladly admitted but only on condition it is a Republic with its own flag and that the predominant influence is not British but Boer."¹ These conditions have now been fulfilled, and, as Mansergh puts it, "English-speaking South Africa [has paid] the price of English magnanimity and, be it added, their own political inertia."² As to the non-whites, the price they paid was not only for British magnanimity, but also for the trust placed by the Cape delegates to the National Convention in the future metamorphosis of the Transvaal and the O.F.S. - or the priority they placed on white unity over justice to the non-white.³ The end of that story, however, has not yet been reached, nor does it directly concern us.

10. Union

The granting of self-government cleared the way for Union. Smuts and Merriman had long discussed it and prepared for it, before even self-government was granted.

1. Ibib.

2. Op. cit., p. 59.

3. See below, pp. 64-66.

Milner's successor, Selborne was so devoted to the idea and so active in its prosecution that the South African protagonists had to make all haste to make sure that it remained a purely South African project. The warmest adherents to it were, however, those in the Cape and the Transvaal. The O.F.S. leaders were rather more hesitant, fearing absorption; and Natal, at best lukewarm, might not even have been that if it had not been for the fright it had received from the 1906 Zulu Rebellion and the hope it entertained of economic advantage. Occasion was taken at the Customs and Railways Conference in May 1908 to raise the issue of a Convention. The meeting agreed in principle to a union of the colonies and, to that end, to the early calling of a National Convention to consist of twelve delegates from the Cape, eight from the Transvaal, and five each from Natal and the O.F.S. It was also agreed that voting should be per capita and not by colonies.¹

When the Convention met in Durban in November of the same year, Southern Rhodesia was also represented by three non-voting members. Wisely the provincial leaders ensured that the Convention should have a national rather than a party or even a governmental character, and each

1. Hancock, op. cit., p. 252.

delegation except Natal consisted of members of both language groups, and without exception of both government and opposition parties. F.S. Malan from the Cape, one of the most ardent advocates of Union, gives some idea of the atmosphere of the meeting when the Conference was first constituted.

What a remarkable collection of men who have played an important part in the history of South Africa! To think that such a meeting can be convened nine years after the first shot was fired in the bloody war between Boer and Briton! The character of this assembly guarantees the sincerity of the desire to unite South Africa. This really does give one food for thought. The heart of the Afrikaner beats fast, so many are the thoughts that surge in his mind when surveying the assembly.¹

Indeed it was a "remarkable collection". There were the Boer Generals, Botha, Smuts, Burger, de la Rey, Hertzog and de Wet, besides the old and ailing "bitter-ender" ex-President Steyn, sitting alongside such former opponents as Jameson, Farrar and Fitzpatrick. They included men who held widely differing political opinions but who gave the concept of Union priority over them, such as Merriman and Smuts. There were others, such as Hertzog, to whom one issue outweighed even the importance of Union - in this case, that of language.

1. F.S. Malan. Die Konvensie-Dagboek van F.S. Malan, 1908-1909 (Cape Town 1951), p. 21. Ed. by Johann F. Preller. Translated by A.J. de Villiers.

The three most important issues the Convention was called upon to decide were: the nature of the union and of the constitution, the language question, and the franchise. Any one of them might have led to a deadlock and postponed the advent of union indefinitely. To all of these, Smuts, the indefatigable drafter had an answer - or/least a formula; for he came thoroughly prepared with his own draft for a constitution and with a team of experts to assist him. On most issues, too, he had the willing and important co-operation of Merriman with whom he had so long corresponded.

On the related questions of the nature of the union and of the constitution Smuts and Merriman had long been in agreement: that the union should be unitary rather than federal, and that, on the whole, the constitution should be flexible rather than rigid.¹ To this plan, only the Natal delegation was really opposed; although at least some of the O.F.S. delegation were prepared to consider a federal arrangement. In the event, only the Natal delegates voted against unification and in favour of federation, in spite of the opinion expressed by one Natal delegate that "the people of Natal would absolutely refuse to surrender their independent powers of legislation."²

1. Cf.. Hancock op. cit., pp. 252-253.

2. Sir Edgar H. Walton The Inner History of the National Convention of South Africa (Cape Town 1912) p. 73. This was not to be the last time that a Natal threat was lightly disregarded by the rest of South Africa.

Although Smuts and others were firmly convinced of the defects of federalism - often on illogical or insufficient grounds, it is probable that a vote in favour of federation rather than union would have been accepted, if this had proved to be the only possible form in which the four colonies could be brought together. The language and franchise issues, on the other hand, were critical. Although not always a reliable guide, Pirow is probably right when he says that Hertzog's "attitude made it perfectly clear that if his demands were not met, he, backed by President Steyn, would wreck the Convention."¹ In the end this issue was settled with little difficulty, although Hertzog's original notion aroused some opposition on the grounds that it was over-long and, more seriously, that it introduced the principle of compulsion. Hertzog was supported by President Steyn. "He spoke in English," records F.S. Malan, "the delegates listened with the closest attention. The equality of the languages was the symbol of the equality of the races, he said. If this had been realized in South Africa a hundred years ago,² the history of this country would probably have been quite different. While this speech was being made", Malan goes on, "the eyes of more than one delegate were wet with tears.

1. Oswald Pirow James Barry Munnik Hertzog (Cape Town. n.d), p. 51

2. This is a reference to the Somerset policy. Cf. pp. 19-20 above.

I had to dry my eyes repeatedly and felt most ashamed because I was so easily moved. Later I learnt that Mr. Van Heerden and Dr. Beck had the same experience."¹

In order to avoid the objection raised against Hertzog's motion an informal committee met to discuss the problem. As a result of the agreement reached there, Sir George Farrar, an ex-Reformer of the Uitlander days, proposed the motion that was to become section 137 of the Act of Union. It was unanimously carried "amid loud chears".² Malan's further comment is worth quoting: "Truly this is a good sign. One of the biggest obstacles in the way of unification has been removed. May God bless the work. A sigh of relief escaped from more than one breast when this decision had been made. It was generally felt that the war with all its suffering had made this solution possible."

The question of the franchise was just as critical, but far more complicated and far less easily resolved. The position in the Colonies at this time was: O.F.S. and Transvaal both had a manhood franchise, but restricted to only Europeans; Natal had a qualified franchise virtually restricted to Europeans; the Cape had a qualified franchise without restriction as to colour. The delegations from the O.F.S. and the Transvaal

1. F.S. Malan, op. cit., p. 41.

2. Ibid., p. 47.

were adamant that they would not be able to get union accepted in their provinces if the franchise were extended to the Natives; while the Cape delegates insisted that they for their part could not sacrifice their non-white voters. A further division centred round the question of whether a final solution should be sought at this stage, or whether it should be left to the future.¹ The agreement reached in the end was a compromise: the existing franchise laws in each colony should apply until altered by Parliament; Parliament should have the power to prescribe the qualifications for the franchise; but a law disqualifying Cape voters on grounds of race or colour would require a two-thirds majority at a joint sitting of both Houses of Parliament.² As a result of this compromise union was saved: it left the door open in the other colonies while it protected the Coloured voters of the Cape.³ F.S. Malan contemplated this approach with a pessimism that subsequent events have justified. In the course of a speech in the Convention

1. Cf. Walton, op. cit., chap V, passim; and Malan, op. cit., pp. 47-59.

2. Sections 35 and 36 of the Act of Union.

3. But not for all time. Native voters were removed from the common roll and given special representation instead in 1936. In 1959 that representation was abolished. In 1956, after a bitter five-year constitutional crisis, Coloured voters were removed from the common roll and given special representation instead - and that now faces an uncertain future.

he said: "It had taken a hundred years of strife and tears to bring the Europeans to unification. By not facing squarely the disagreement over the Natives they were once again heading for struggles and tears and suffering. People spoke about the necessity to unite the white races first and then tackle the Native franchise question but a union of this kind would not be a genuine union. The germs of discord would continue to exist."¹

A related issue, that threatened to degenerate into a partisan wrangle, was that of distribution. As far as white politics were concerned this was a question that vitally affected the balance of power, as all the participants were well aware. Smuts proposed that the basis of provincial representation in the lower house should be the number of registered white voters. Natal and the Cape, with their qualified franchises reacted strongly - and little wonder, as the following table shows:²

	<u>White population</u>	<u>Voters</u>	<u>Number of seats</u> ³
Cape	569,000	129,000	52
Transvaal	288,000	106,000	43
O.F.S.	142,000	35,000	15
Natal	92,000	23,000	10

1. F.S. Malan, op. cit., p. 57.

2. The figures are taken from Walton, op. cit., p. 167.

3. That is the number of seats that would have been allotted to each region if Smuts' proposal has been accepted.

In the face of the under-representation of the Cape that would result, Sir Henry de Villiers, the usually calm and judicious Chairman, felt obliged to remind the delegates that if they "were not prepared to recognize the rights of the Cape Colony, he would be sorry but the Cape was quite capable of standing alone."¹ The compromise he proposed was distribution between provinces on the basis of population, and distribution within provinces on the basis of voters, and this served as the basis for the final formula, except that the allocation of seats per province was made proportionate to the adult white population. It was further agreed that in the first instance special consideration be given to the small colonies, especially Natal. The final distribution gave the Cape 51 members, the Transvaal 36, Natal 17, and the O.F.S. 17.² Subject to certain safeguards for the smaller provinces, automatic redistribution was provided for. This, with the concentration of so much mineral wealth in the Transvaal made inevitable the ultimate predominance of that province. Equally, the adoption of the principle of "one vote, one value" with the modification contained in the provisions for "loading" and "unloading" constituencies (which in any case acted in favour of the rural Afrikaner), made inevitable the ultimate predominance of the Afrikaner.

1. F.S. Malan, op. cit., p. 65.

2. Walton, op. cit., p. 178.

One other issue nearly wrecked the Convention - perhaps more nearly than any other. Ironically, it was not related to any great principle. It was the choice of the capital. The Natal and the O.F.S. delegates having no direct interest in the outcome¹ watched with dismay as the two "giants" seemed to approach the point of deadlock. But in the end, a compromise was at last found, and one as curious as any of the compromises that went to the making of the Union. In fact, no capital as such, is named. Pretoria is named as "the seat of Government", and Cape Town as "the seat of the Legislature", while Bloemfontein was given the consolation of being the locale for normal sittings of the Appellate Division of the Supreme Court.

The draft constitution was adopted in Natal by a referendum, and in the other three colonies by the Legislatures. It passed through the Imperial Parliament without difficulty and with only verbal changes. On May 31, 1910, the Act of Union came into effect. With Botha, the great conciliator, as first Prime Minister, and with good will abounding throughout South Africa, optimism seemed justified that the task of nation-building would be successfully and happily accomplished. That political bitterness instead has continued to characterize the history of South Africa is not the fault

1. O.F.S. delegates did plead for Bloemfontein, but with no real hope of success.

of those who framed the constitution as some have argued.
Neither their wisdom nor this foresight was impeccable;
but no constitution could have dammed the forces that
had gathered over the preceding two hundred years.

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January 25, 1966.

John Gordon

ECONOMIC AND SOCIAL
STATISTICS
of
SOUTH AFRICA

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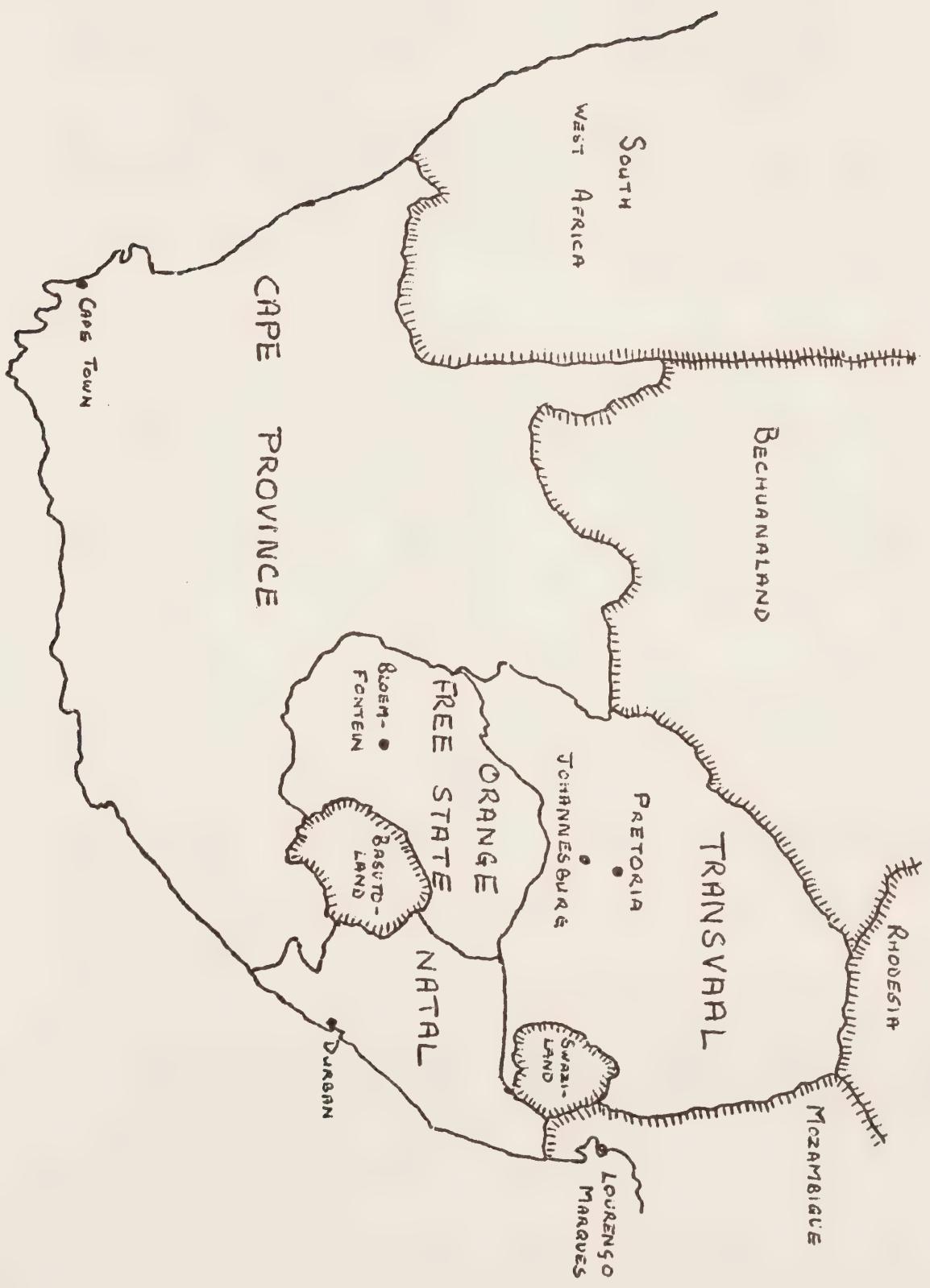
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SOUTH AFRICA

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1. INTRODUCTION

The State of South Africa is located at the extreme southern tip of the African continent. The country is composed of four provinces -- Cape Province, Natal, Transvaal and Orange Free State -- and has a total area of 471,445 square miles. In 1960 the White population¹ of 3,088,492 was outnumbered by more than 12 million Bantus, Coloureds and Asiatics.

Table I
POPULATION OF SOUTH AFRICA

(Source: Statistical Year Book (South Africa,) 1964, Section A.)

<u>Year</u>	<u>Total</u>	<u>Whites</u>	<u>Coloured</u>	<u>Asiatics</u>	<u>Bantu</u>
1960	16,022,797	3,088,492	1,509,258	477,125	10,927,922

Percentages					
1904	100.00	21.6	8.6	2.4	67.5
1960	100.00	19.3	9.4	3.0	68.3

The population density for the country was 33.9 per square mile for the population as a whole and 6.5 per square mile for Whites.

1. Population figures from the 1960 census will not always be identical. In some cases it was possible to use final data, but in many cases sample data was all that was available.

Table II
AREA AND POPULATION DENSITY, 1960

(Source: Statistical Year Book (South Africa)
1964 Section A.)

P o p u l a t i o n

Province	Area sq.mi.	Total	Density	White	Density
Total	471,445	16,002,797	33.9	3,088,492	6.5
Cape	278,380	5,362,853	19.2	1,003,207	3.6
Natal	33,578	2,979,920	88.7	340,235	10.1
Transvaal	109,621	6,273,477	57.2	1,468,305	13.4
OFS	49,866	1,386,547	27.8	276,745	5.5

2. LANGUAGE GROUPS

The White population consists of two main language groups, the English and the Afrikaners (who speak a language derived from Dutch). The Afrikaans home language¹ group is the larger of the two, comprising 58 per cent of the population in 1960, as compared to the English home language group with 37.3 per cent. A very small group, 1.4 per cent, gives both Afrikaans and English as home language and 3.3 per cent give other languages as home language.

1. In South Africa, the equivalent to the Canadian census mother-tongue question asks which is the main language spoken at home.

The relative numerical superiority of the Afrikaans language has grown since 1936. As shown in Table III the percentage of the population speaking Afrikaans as a home language has increased from 55.9 per cent to 58 per cent.

Table III

PERCENTAGE DISTRIBUTION OF HOME LANGUAGE,

1936 - 1960

(Source: Union Statistics for 50 years: 1960 Census)

Languages	1936	1946	1951	1960
Total	100.0	100.0	100.0	100.0
Both	2.5	1.3	1.4	1.4
English	39.1	39.4	39.3	37.3
Afrikaans	55.9	57.3	56.9	58.0
Other	2.5	2.1	2.3	3.3

An examination of the four provinces shows a majority of Afrikaans speakers in all but Natal, which is predominantly English-speaking. However, the largest bloc of both Afrikaans and English-speaking people is in the Transvaal, the largest of the four provinces (See Table IV).

Table IV

HOME LANGUAGE BY PROVINCES, 1960

(Source: State of South Africa Yearbook, 1963, p.83)

HOME LANGUAGE	UNION	CAPE	NATAL	TRANSVAAL	O.F.S.
Total	3,088,492	1,003,207	340,235	1,468,305	276,745
Both	44,866	14,628	4,862	22,529	2,847
English	1,150,738	386,908	241,458	485,349	37,023
Afrikaans	1,790,988	581,591	79,504	897,622	232,271
Other	101,900	20,080	14,411	62,805	4,604

Percentage Distribution

Total	100.0	100.0	100.0	100.0	100.0
Both	1.4	1.5	1.4	1.5	1.0
English	37.3	38.6	71.0	33.1	13.4
Afrikaans	58.0	58.0	23.4	61.1	83.9
Other	3.3	2.0	4.2	4.2	1.7

Table V

HOME LANGUAGE, URBAN-RURAL, 1936-1960

(Source: Statistical Year Book (South Africa), 1964,
and Union Statistics for 50 Years)

Language	1936	1946	1951	1960
Total	2,003,857	2,372,690	2,641,689	3,088,492
Both	50,411	29,811	38,011	44,866
English	783,071	933,812	1,039,270	1,150,738
Afrikaans	1,120,770	1,359,704	1,502,861	1,790,988
Other	49,605	49,363	61,547	101,900

Urban

Total	1,307,387	1,719,338	2,070,675	2,565,785
Both	45,532	25,618	34,744	40,946
English	687,824	833,654	949,224	1,069,672
Afrikaans	535,537	821,561	1,035,214	1,364,012
Other	38,494	38,505	51,493	91,155

Rural

Total	696,470	653,352	571,014	522,707
Both	4,879	4,193	3,267	3,920
English	95,247	100,158	90,046	81,066
Afrikaans	585,233	538,143	467,647	426,976
Other	11,111	10,858	10,054	10,745

Table Va
HOME LANGUAGE
TOTAL

	1936	1946	1951	1960
Total	2,003,857	2,372,690	2,641,689	3,088,492
Urban	1,307,387	1,719,338	2,070,675	2,565,785
Rural	696,470	653,352	571,014	522,707

Percentage

Total	100.0	100.0	100.0	100.0
Urban	65.2	72.5	78.4	83.1
Rural	34.8	27.5	21.6	16.9

English and Afrikaans

Total	100.0	100.0	100.0	100.0
Urban	90.3	85.9	91.4	91.3
Rural	9.7	14.1	8.6	8.7

English

Total	100.0	100.0	100.0	100.0
Urban	87.8	89.3	91.3	93.0
Rural	12.2	10.7	8.7	7.0

Afrikaans

Total	100.0	100.0	100.0	100.0
Urban	47.8	60.4	68.9	76.2
Rural	52.2	39.6	31.1	23.8

Other

Total	100.0	100.0	100.0	100.0
Urban	77.6	78.0	83.7	89.5
Rural	22.4	22.0	16.3	10.5

Table Vb
HOME LANGUAGE (PERCENTAGES)

State				
Languages	1936	1946	1951	1960
Total	100.0	100.0	100.0	100.0
Both	2.5	1.3	1.4	1.4
English	39.1	39.4	39.3	37.3
Afrikaans	55.9	57.3	56.9	58.0
Other	2.5	2.1	2.3	3.3

Urban				
Languages	1936	1946	1951	1960
Total	100.0	100.0	100.0	100.0
Both	3.5	1.5	1.7	1.6
English	52.6	48.5	45.8	41.7
Afrikaans	41.0	47.8	50.0	53.2
Other	2.9	2.2	2.5	3.6

Rural				
Languages	1936	1946	1951	1960
Total	100.0	100.0	100.0	100.0
Both	0.7	0.6	0.6	0.7
English	13.7	15.3	15.8	15.5
Afrikaans	84.0	82.4	81.9	81.7
Other	1.6	1.7	1.8	2.1



As have most other countries, the State of South Africa has become more urbanized in the past 25 years. Since at least 1936, the rural population has decreased in both real as well as percentage terms.

An examination of Table Va shows that by 1946 the majority of Afrikaans speakers lived in urban areas, but it was not until 1951 that the census showed the Afrikaans speakers making up the majority of urban inhabitants. The Afrikaans speaking group have since 1951 formed the majority in both urban and rural areas. The English as a group are far more urban than the Afrikaners.

3. LANGUAGES SPOKEN

Census statistics in South Africa show an exceptional degree of bilingualism among the population, determined perhaps by the mixture of moderately large numbers of both groups in each province. In 1951 nearly 73 per cent of the population over seven years of age claimed to speak both languages. Comparable 1960 data were not available when this study was prepared. However, Table VII, based on different classifications shows that bilingualism has increased in 1960 as well.

Table VI
OFFICIAL LANGUAGES SPOKEN (Whites 7 plus years)
1918 - 1951

(Source: compiled from Union Statistics for 50 years)

Percentages
Official Languages 7 plus

Language	1918	1926	1936	1946	1951	1960 ¹
Both	42.1	58.5	64.4	69.0	72.9	
English	30.3	21.6	19.0	17.0	15.3	
Afrikaans	26.6	19.6	16.4	13.8	11.4	
Neither & Uns.	1.0	0.3	0.2	0.2	0.3	
Total	100.0	100.0	100.0	100.0	100.0	

Urban

Both	41.7	61.1	66.8	70.6	73.6
English	45.3	31.0	25.3	20.8	17.8
Afrikaans	11.8	7.6	7.5	8.3	8.2
Neither & Uns.	1.3	0.4	0.3	0.3	0.3
Total	100.0	100.0	100.0	100.0	100.0

Rural

Both	42.6	54.7	59.5	64.5	70.4
English	11.7	7.7	6.3	6.5	6.0
Afrikaans	45.0	37.4	34.0	28.7	23.4
Neither & Uns.	0.7	0.1	0.1	0.2	0.2
Total	100.0	100.0	100.0	100.0	100.0

1. Not available at time of publication.

As might be expected bilingualism is more evident in urban than in rural areas. In 1951 the census showed 73.6 per cent of urban residents bilingual compared to 62.3 per cent of rural residents.

From 1918 to 1951 bilingualism among the population 7 years and over increased in South Africa from 42.1 per cent of the population to 72.9 per cent. Using the total population as base, Table VII shows that bilingualism increased from 1946 to 1960, for the total population with both the English and Afrikaans groups showing an increase.

Table VII
 OFFICIAL LANGUAGE BY HOME LANGUAGE, 1946-1960
 (Source: 1946, 1951 Census and unpublished data
 from 1960 census)

Percentages

Home Language	Year	Language Spoken				
		Total	Both	English	Afrikaans	Neither
Total	1946	100.0	60.8	18.5	20.3	0.4
	1951	100.0	63.7	17.4	18.5	0.4
	1960	100.0	66.3	15.0	18.1	0.5
Both	1946	100.0	100.0	-	-	-
	1951	100.0	100.0	-	-	-
	1960	100.0	100.0	-	-	-
English	1946	100.0	55.0	45.0	-	-
	1951	100.0	57.9	42.1	-	-
	1960	100.0	62.5	37.5	-	-
Afrikaans	1946	100.0	64.7	-	35.3	-
	1951	100.0	67.6	-	32.4	-
	1960	100.0	69.2	-	30.8	-
Other	1946	100.0	40.9	36.8	5.3	16.9
	1951	100.0	43.9	34.5	4.6	17.0
	1960	100.0	42.6	34.0	7.7	15.7

4. RELIGION

The Dutch Reformed Church is the strongest church in South Africa, whose membership includes more than 50 per cent of the population. It is divided into three churches, the Nederduitse Gereformeerde Kerk, the largest, the Gereformeerde Kerk and the Nederduitsch Hervormde Kerk. Though the Afrikaans population (considered the main support of the church) has been increasing, the percentage distribution of the Dutch Reformed Church by religion has been little changed since 1911 (see Table VIII).

5. AGE DISTRIBUTION

There is a startling difference between the age structures of the two main linguistic groups. The age distribution of those whose home language is Afrikaans is more highly concentrated in the younger brackets than is the English-speaking group. In 1961 among the Afrikaners, 44.9 per cent were under 20, compared to 36.4 per cent for the English. The distribution suggests a continuing percentage increase among the Afrikaners at the expense of the English-speaking group.

Table VIII

RELIGION (PERCENTAGE) 1911 - 1960

(Source: Union Statistics for 50 Years; and 1960 census)

Religion	1911	1918	1921	1926	1936	1946	1951	1960 Total	1960 %
Nederduitse Gereformeerde Kerk				49.6	48.5	45.3	41.9	1,326,344	42.9
Gereformeerde Kerk				2.7	2.9	3.2	4.2	101,470	3.3
Nederduitsch Hervormde Kerk				2.7	2.9	5.4	6.9	190,342	6.2
Total Dutch Reformed	54.4	56.3	55.2	55.0	54.3	53.8	53.1	1,618,156	52.4
Anglican	20.0	18.6	19.4	18.6	17.2	15.8	15.8	389,859	12.6
Presbyterian	4.6	4.3	4.9	4.7	4.1	4.0	3.8	110,873	3.6
Methodist	6.4	6.6	6.8	6.3	7.1	7.6	8.3	269,825	8.7
Roman Catholic	4.1	3.9	4.0	4.2	4.6	5.0	5.3	192,799	6.2
Jewish	3.7	4.1	4.1	4.3	4.5	4.4	4.1	116,066	3.7
Others	6.7	6.2	5.6	6.9	8.2	9.4	9.6	390,914	12.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	3,088,492	100.0

Table IX
 PERCENTAGE DISTRIBUTION OF HOME LANGUAGE
 BY AGE GROUPS, 1951 - 1960
 (Source: Calculated from 1951 and 1960 censuses)

Union Total

1951

Ages	Total	Bilingual	English	Afrikaans
Total	100.0	100.0	100.0	100.0
0-19	39.8	36.0	34.4	44.3
20-39	30.0	31.8	30.4	29.6
40-59	20.5	24.4	23.8	17.9
60+	9.7	7.7	11.5	7.3

1960

Total	100.0	100.0	100.0	100.0
0-19	41.3	34.3	36.4	44.9
20-39	27.4	27.7	26.1	27.8
40-59	21.6	27.4	25.3	18.9
60+	9.9	10.6	12.0	8.4

6. EDUCATION

Despite having become a majority in the urban areas, the Afrikaners, perhaps still influenced by their rural past, show a lower level of educational accomplishment than the English-speakers.

Table X shows that for both sexes 12.9 per cent of the English-speaking have completed standard 10 (high school) and another 9.5 per cent have gone beyond, compared to 6.4 per cent completing standard 10 among the Afrikaners and only 5.2 per cent going beyond.

Table X
LEVEL OF EDUCATION COMPLETED, 1960

(Source: Unpublished 1960 census material)

	Total	Both	English	Afrikaans	Others
Unsp.	78,883	1,431	46,419	21,088	9,945
No. Std.	507,061	5,334	155,146	330,923	15,658
Up to Std 5	593,860	7,637	164,270	405,831	16,122
Std.6-9	1,352,177	23,729	496,824	800,409	31,215
Std. 10	275,407	5,164	143,768	113,269	13,206
Beyond Std.10	211,140	4,006	105,562	91,855	9,717
TOTAL	3,018,528	47,301	1,111,989	1,763,375	95,863
%					
Unsp.	2.6	3.0	4.2	1.2	10.4
No. Std.	16.8	11.3	14.0	18.8	16.3
Up to Std.5	19.7	16.1	14.8	23.0	16.8
Std.6-9	44.8	50.2	44.7	45.4	32.6
Std. 10	9.1	10.9	12.9	6.4	13.8
Beyond Std.10	7.0	8.5	9.5	5.2	10.1
TOTAL	100.0	100.0	100.0	100.0	100.0

Table Xa

LEVEL OF EDUCATION 1960 - PERCENTAGES

(Source: Prepared from unpublished 1960 census data.)

Home Language

	Total	Both	English	Afrikaans	Others
<u>Men</u>					
Unsp.	2.5	2.7	3.9	1.1	10.0
No. Std.	17.1	11.4	14.4	19.0	15.4
Up to Std.5	20.1	15.9	15.1	23.4	16.7
Std. 6-9	42.4	48.6	41.0	43.7	31.1
Std. 10	9.4	11.2	13.0	6.9	13.3
Beyond Std.10	8.5	10.2	12.4	5.9	13.5
TOTAL	100.0	100.0	100.0	100.0	100.0
<u>Women</u>					
Unsp.	2.8	3.3	4.4	1.2	10.2
No. Std.	16.5	11.2	13.5	18.6	17.4
Up to Std.5	19.3	16.4	14.4	22.6	16.9
Std. 6-9	47.1	51.7	48.1	47.1	34.1
Std.10	8.9	10.6	12.8	6.0	14.3
Beyond Std.10	5.5	6.8	6.8	4.5	6.6
TOTAL	100.0	100.0	100.0	100.0	100.0

The standard of education is somewhat higher for men than women, but for both sexes the English-speaking standard is higher than the Afrikaan-speaking one.

One reservation must be made. It cannot be forgotten that the Afrikaner age structure puts the group at a disadvantage for this type of comparison. If one were to take this structure into account it would show the Afrikaners in a somewhat better light. (This observation is also valid for the statistics on salary and occupation which follow). However, despite their being the smaller group, the English still have more total graduates of Standard 10 and above.

An examination of the universities sheds more light on the situation. The student body is divided 50-50 between English language and Afrikaans language universities, though the number of Afrikaners in the relevant age groups is far larger than the number of English. This is an indication only; statistics are not available for university students on a home language basis.

Table XI
WHITE UNIVERSITY ENROLMENT IN SOUTH AFRICA, 1961
(Source: State of South Africa Yearbook, 1963)

<u>Afrikaans Universities</u>		<u>English Universities</u>	
University of Stellenbosch	4,602	University of Cape Town	5,426
University of the Orange Free State	2,163	University of Natal	3,844
University of Pretoria	7,961	University of Witwatersrand	5,660
Patchefstroom University	1,840	Rhodes University	1,627
TOTAL	16,561	TOTAL	16,557
<u>English and Afrikaans University</u>			
University of South Africa		10,583	
Total University enrolment		43,706	

7. INCOME

The relatively lower educational attainment of the Afrikaners as a group is reflected in the salary and occupational structures of the two language groups. The English-speaking South Africans are greatly over-represented in many of the professions and the higher income groups.

An examination of incomes for the English and Afrikaans-speaking groups for 1946 and 1960 (Tables XI, XII, XIII) show the English-speakers greatly over-represented in the upper income brackets for both years, although by 1960 the position of the Afrikaner had shown improvement.

In 1946 the English-speakers were under-represented in the group earning less than £349 and over represented above that. In that year 54.6 per cent of the total income earning population earned less than £349 but only 35.9 per cent of the English-speaking were below this level, compared to 68.2 per cent of the Afrikaans.

Table XII
INCOME BY HOME LANGUAGE - 1946
(Source: Census, 1946)

Income Level in £	Total	%	Eng.	%	Afr.	%
Under 50	36,296	5.4	4,240	1.5	31,448	8.6
50-59	55,744	8.3	11,940	4.2	42,640	11.7
100-149	61,029	9.1	17,869	6.3	41,642	11.4
150-199	55,622	8.3	15,659	5.5	38,437	10.5
200-249	58,748	8.7	17,495	6.1	39,336	10.8
250-299	45,660	6.8	14,706	5.2	29,284	8.0
300-349	53,860	8.0	20,309	7.1	31,583	8.6
350-399	50,687	7.5	22,893	8.0	25,772	7.1
400-499	85,594	12.7	46,041	16.2	36,204	9.9
500-599	56,748	8.4	34,063	12.0	20,347	5.6
600-799	52,513	7.8	34,796	12.2	15,333	4.2
800-999	21,290	3.2	14,758	5.2	5,394	1.5
1000-1999	28,647	4.3	20,734	7.3	5,882	1.6
2000-2999	6,883	1.0	5,142	1.8	1,316	0.4
3000-3999	2,404	0.3	1,861	0.7	411	0.1
4000-4999	932	0.1	747	0.3	146	-
5000+	1,914	0.3	1,610	0.6	200	0.1
Total Income Earners	674,571	100.0	284,863	100.0	365,375	100.0

Table XIII
INCOME BY HOME LANGUAGE - 1960
(Source: Unpublished 1960 Census data)

Income Level in Rand*	Total	%	English	%	Afr.	%
Under 100	8,451	1.0	2,512	0.7	5,513	1.1
100-198	10,176	1.0	3,116	0.9	6,552	1.3
200-298	26,934	3.0	6,184	1.8	19,693	4.0
300-398	22,750	2.6	6,396	1.9	15,550	3.1
400-498	20,152	2.3	6,231	1.8	13,038	2.6
500-598	17,209	1.9	5,404	1.6	11,005	2.2
600-698	28,092	3.2	8,041	2.4	18,770	3.8
700-798	29,538	3.3	8,472	2.5	19,793	4.0
800-998	48,330	5.4	14,275	4.2	31,770	6.4
1000-1198	51,972	5.9	14,600	4.3	35,006	7.0
1200-1598	116,577	13.1	37,065	10.8	73,135	14.7
1600-1998	152,599	17.2	53,686	15.7	89,802	18.0
2000-2998	213,813	24.1	96,533	28.2	103,140	20.7
3000-3998	65,208	7.3	34,630	10.1	26,678	5.4
4000-4998	31,557	3.6	18,137	5.3	11,634	2.3
5000-5998	14,307	1.6	8,576	2.5	4,922	1.0
6000-7998	14,751	1.7	8,994	2.6	5,004	1.0
8000-9998	6,642	0.8	3,802	1.1	2,515	0.5
10000-14998	6,127	0.7	3,547	1.0	2,329	0.5
15000-19998	2,019	0.2	1,042	0.3	877	0.2
20000-29998	1,164	0.1	560	0.2	550	0.1
30,000+	784	0.1	377	0.1	380	0.1
Total Income Earners	889,152	100.0	342,180	100.0	497,656	100.0

* £ 1 = 2 Rand

Table XIV
INCOME BY HOME LANGUAGE -- 1946 - 1960
(Source: Compiled from Tables XII and XIII)

Income Level	Total	English	Afrikaans
<u>1946</u>			
Under £349 %	366,959 100.0	102,218 27.9	254,370 69.3
£350 - 799 %	245,542 100.0	137,793 56.1	97,656 39.8
Over £ 799 %	62,070 100.0	44,852 72.3	13,349 21.5
Total	674,571 100.0	284,863 42.2	365,375 54.2
<u>1960</u>			
Under R 2,000 %	532,780 100.0	165,982 31.2	339,627 63.7
R 2,000 - 4,000 %	279,021 100.0	131,163 47.0	129,818 46.5
R 4,000 %	77,351 100.0	45,035 58.2	28,211 36.5
Total	889,152 100.0	342,180 38.5	497,656 56.0

An examination of the top 10 per cent or so of salary earners (above £ 799 in 1946 and R 4,000 in 1960) shows that the English-speaking dominate (see Table XIII).

The bilingual English and Afrikaans home language group have not been included in Tables XI, XII and XIII, because they form only a small proportion of the population. However, as far as income is concerned, their position is midway between that of the English-speaking and Afrikaans speaking groups.

8. OCCUPATION STRUCTURE

The occupational structure of South Africa reflects the results obtained in the sections on education and income. Among the men, the English speakers are over-represented in the professional and technical, administrative and management, and sales workers categories, (see Table XIV). The Afrikaans are over-represented in service workers, transportation, labourers, miners and agriculture and fishing categories. Both groups are represented about proportionately in the industrial workers and clerical workers categories. Thus the English-speaking group predominates in the higher paid professional, technical and managerial positions, while the Afrikaans speakers predominate in the less desirable work areas. Women's employment shows the same trends.

The degree of English domination among the professionals varies from profession to profession (see Table XV). The English-speakers comprise 79.6 per cent of the architects, 73.8 per cent of the engineers and 65.5 per cent of the doctors,

though they make up only 38.0 per cent of the actively employed. They also make up only 15.8 per cent of the police force and 11.5 per cent of the common labourers. (All these figures apply only to the White labour force).

Table XV
OCCUPATIONS IN SOUTH AFRICA, MALES, 1960

(Sources: Compiled from unpublished 1960 Census Material).

Home Language					
Occupation	Total	Both	English	Afrikaans	Other
Professional and technical %	85,667 100.0	1,532 1.8	46,931 59.8	32,811 38.3	4,393 5.1
Administrative and managerial %	71,369 100.0	1,348 1.9	44,270 62.0	20,154 28.2	5,597 7.8
Clerical %	131,529 100.0	2,656 2.0	60,058 45.7	66,703 50.7	2,112 1.6
Sales Workers %	43,340 100.0	917 2.1	27,489 63.4	12,612 29.1	2,322 5.4
Agriculture and fishing %	112,416 100.0	722 0.6	14,455 12.9	94,727 84.3	2,512 2.2
Mining %	31,283 100.0	655 2.1	7,227 23.1	22,373 71.5	1,028 3.3
Transport %	63,640 100.0	1,167 1.8	12,852 20.2	49,174 77.3	447 0.7
Industrial craftsmen %	240,805 100.0	4,841 2.0	91,539 38.0	130,771 54.3	13,654 5.7
Labourers %	13,202 100.0	158 1.2	1,524 11.5	11,486 87.0	34 0.3
Service workers %	42,735 100.0	1,027 2.4	11,424 26.7	29,325 68.6	959 2.2
Total male working force %	835,986 100.0	15,023 1.8	317,769 38.0	470,136 56.2	33,058 4.0

Table XVI
SELECTED OCCUPATIONS, MALES, 1960

(Sources: Unpublished 1960 Census Data)

Occupation	Home Language				
	Total	Both	English	Afrikaans	Other
TOTAL					
Architect	2,201	36	1,753	291	121
Engineer	7,579	107	5,597	1,141	734
Surveyor	2,080	64	1,134	835	47
Chemist	2,242	37	1,200	784	221
Veterinarian	1,343	25	594	598	126
Med. Pract.	6,799	181	4,456	2,017	145
Nurse	1,442	43	322	1,068	9
Med. Auxiliary	3,398	64	2,651	590	93
Other Medical	3,004	69	1,121	1,760	54
Professor	17,179	287	4,171	12,283	438
Jurist	4,826	124	2,964	1,708	30
Draughtsmen	14,849	252	9,160	4,326	1,111
Chartered Accountants	6,104	60	4,969	952	123
Other Professional	12,621	183	6,839	4,458	1,141
Clerk	109,989	2,214	49,145	56,957	1,673
Other Clerical	21,540	442	10,913	9,746	439
Shop. Asst.	19,874	411	11,317	6,667	1,479
Other Saleswork	15,846	328	11,998	2,863	657
Farmer	98,960	642	12,865	83,353	2,100
Farm Foreman	12,269	74	1,509	10,286	400
Spec. Mining	25,588	530	5,303	18,813	942
Mine Captain	5,695	125	1,924	3,560	86
Other Transport	32,137	584	5,906	25,494	153
Pilot (air)	616	23	385	195	13
Driver Road Trans.	17,517	332	3,542	13,490	153
Mechanic	27,069	552	9,460	15,358	1,699
Electrician	22,957	506	11,926	9,474	1,051
Carpenter	22,042	418	7,900	11,899	1,825
Painter	7,850	171	2,610	4,809	260
Production Worker	17,335	358	7,216	9,119	642
Labour	13,202	158	1,524	11,486	34
Police	21,293	457	3,373	17,437	26
Armed Forces	4,744	112	1,321	3,276	35
Scholar	379,029	5,200	130,664	233,782	9,383
Total Population	1,533,567	24,328	554,787	902,914	51,538

Table XVIa

SELECTED OCCUPATION, MALES, 1960 - PERCENTAGES

(Source: Calculated from Table XVI)

Occupation	Home Language				
	Total	Both	English	Afrikaans	Other
TOTAL					
Architect	100.0	1.6	79.6	13.2	5.5
Engineer	100.0	1.4	73.8	15.1	9.7
Surveyor	100.0	3.1	54.5	40.1	2.3
Chemist	100.0	1.7	53.5	35.0	9.9
Veterinarian	100.0	1.9	44.2	44.5	9.4
Med. Pract.	100.0	2.7	65.5	29.7	2.1
Nurse	100.0	3.0	22.3	74.1	0.6
Med. Auxiliary	100.0	1.9	78.0	17.4	2.7
Other Medical	100.0	2.3	37.3	58.6	1.8
Professor	100.0	1.7	24.3	71.5	2.5
Jurist	100.0	2.6	61.4	35.4	0.6
Draughtsmen	100.0	1.7	61.7	29.1	7.5
Chartered Accountants	100.0	1.0	81.4	15.6	2.0
Other Professional	100.0	1.4	54.2	35.3	9.0
Clerk	100.0	2.0	44.7	51.8	1.5
Other clerical	100.0	2.1	50.7	45.2	2.0
Shop Asst.	100.0	2.1	56.9	33.5	7.4
Other Saleswork	100.0	2.1	75.7	18.1	4.1
Farmer	100.0	0.6	13.0	84.2	2.1
Farm Foreman	100.0	0.6	12.3	83.8	3.3
Spec. Mining	100.0	2.1	20.7	73.5	3.7
Mine Captain	100.0	2.2	33.8	62.5	1.5
Other Transport	100.0	1.8	18.4	79.3	0.5
Pilot(air)	100.0	3.7	62.5	31.7	2.1
Drive Road Trans.	100.0	1.9	20.2	77.0	0.9
Mechanic	100.0	2.0	34.9	56.7	6.3
Electrician	100.0	2.2	51.9	41.3	4.6
Carpenter	100.0	1.9	35.8	54.0	8.3
Painter	100.0	2.2	33.2	61.3	3.3
Production Worker	100.0	2.1	41.6	52.6	3.7
Labour	100.0	1.2	11.5	87.0	0.3
Police	100.0	2.1	15.8	81.9	0.1
Armed Forced	100.0	2.4	27.8	69.1	0.7
Scholar	100.0	1.4	34.5	61.7	2.5
Above as % Total	(24.7)	(21.4)	(23.6)	(25.9)	(18.2)
Total Male Population	100.0	1.6	36.2	58.9	3.4

9. CONCLUSIONS

Despite the growing political strength of the Afrikaans-speaking section in South Africa, the country is becoming increasingly bilingual.

At the same time the Afrikaans-speakers are bettering their educational and employment positions. Despite this improvement in their position they are still under-represented in the higher income groups and in professional, technical and managerial jobs. The prospect is for a further evening out between language groups of income distribution and professional and technical jobs.

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NOT FOR PUBLICATION

THE SOUTH AFRICAN ARMED
FORCES

By

...Prof. K.D. McRae and Judy M.C. Dibben

Note: It was specified that material on the South African Armed forces given in interviews at Defence Headquarters in Pretoria was not for publication, though it might be reported "to the Canadian government".

This study, representing a simple compilation of the material in our files, is a preliminary draft only.

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I STRUCTURE OF S.A.D.F.

1. Historical Outline

The defence policy of the Union of South Africa was first outlined in the Defence Act of 1912. This Act established a defence system that may now appear somewhat ambitious, but which seemed justified at the time in view of the increasingly rapid arming that was taking place elsewhere in the world. General Smuts, who introduced the bill, visualized a small, "regular" striking force and a large Citizen Army, in which from 25,000 to 30,000 men would be under arms at any one time. "I am sure", the General said, "that nothing will bind the people of this country together more than such a system as this".¹

The military and naval forces of the Union were divided into six categories:

- (a) The Permanent Force
- (b) The Active Citizen Force
- (c) Rifle Associations
- (d) The Coast Garrison Force
- (e) The Royal Naval Volunteer Reserve
- (f) The Cadet Force.

It is the first three of these that interest us most as they form the basis from which the present S.A.D.F. has

1. Quoted by R.F. Currey, "Defence and Police", in E.H. Brookes et al. Coming of Age: Studies in South African Citizenship and Politics (Cape Town, 1930), p. 358

been built.

The "Permanent Force" of 1912 was to consist of five regiments of South African Mounted Rifles. The old Cape Mounted Rifles, which had been employed for many years to preserve peace and order in the Cape Colony, were used as a model for these regiments. As a result of this background, the S.A.M.R. could, until a 1922 amendment to the Defence Act, be called upon to perform police functions.

To describe the Active Citizen Force, we can do no better than to quote Currey.

[It] was to be the shaft of the spear, of which the Permanent Force was to be the head. It was designed largely on the Swiss model, with modifications taken from the English "Territorial" system. It fell naturally and effectively into two sections; for it contemplated the organization of the mainly English-speaking youth of the towns in infantry battalions, whilst the mainly Afrikaans-speaking youths of the countryside were to do their military service in mounted infantry regiments.¹

A system of conscription, similar to that used today in the Citizen Force, was adopted.

The Rifle Associations were intended to carry on the old, rural-based Republican Commando system. In fact they were to be the former Commandos but subject to greater organization, training and discipline. The Officers

1. Op. cit., p. 361

would be chosen by election from the ranks; the burghers wore no uniforms; and each would supply his own horse, saddle and bridle.

Smuts' conception of the South African defence forces proved to be too grandiose for the nation to find either the financial means or the desire to support. By 1930, the five S.A.M.R. regiments were no more; the Active Citizen Force units were few and far between and those that did exist were seriously undermanned; as for the Rifle Associations, only about a quarter of the number originally visualized were under training.

The S.A.D.F., in its present shape, was set up by the Defence Act of 1957. Under this Act the S.A.D.F. was divided into three sections corresponding to those branches of the Union Defence Force described above: namely, the Permanent Force (comprising the Army, the Navy and the Air Force), the Citizen Force, and the Commando Units.

2. The Permanent Force

The South Africans are reluctant to give any precise figures as to the actual strengths of their various forces. It would appear, however, that at present the actual strength of the Permanent Force is somewhat below its authorized strength of 16,000 officers and men. In June 1965, actual strength was reported to be about 12,000, with 4,000 vacancies.

The function of the Permanent Force is, according to Brig. Hartzenberg,¹ to act as a cadre for administration and training. Extensive reorganization has been going on in the S.A.D.F. as a whole with the object of enabling the military to fulfill its allotted functions with greater effectiveness. These functions are threefold. Besides the obvious necessity of providing against external attack, the South Africans have also felt themselves to constitute a bastion of the West against Communist aggression,² and, although this is never spelled out, the military is expected to be equipped to act in cases of internal unrest.

One area of recent reorganization has been within Defence Command itself.³ In December 1965, the General Staff was dissolved and replaced by a body known as Supreme Command, S.A.D.F. Coming directly under the Minister of Defence (Mr. J.J. Fouché), the Supreme Command consists of the Commandant-General (Gen. Hiemstra) as Chairman and the executive commanders as members. Assisting the Commandant-General will be a defence Staff under its own head, which will incorporate the sections previously

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1. Now Combat-General and Chief of Defence Administration
 2. Cf. the article in the South African Digest, July 16, 1965, entitled "Red Threat: S.A. arms for survival", in which Gen. Hiemstra is quoted as saying: "We and our country are an indivisible part of Western civilization. Let us be determined not to share in the tendency of the West to commit national suicide..." and so on.
 3. South African Digest, December 17, 1965, p. 3.

under the Adjutant-General, the Quartermaster-General and the Surgeon-General. A brief glance at the names of the officers filling these top positions. -- Hiemstra, J.N. Bierman, H.H. Biermann, van der Merwe, Hartzenberg and Raymond -- shows how preponderant Afrikaners are in the top echelons of the S.A.D.F.

South Africa has a form of compulsory military service, known as the ballot system. Under it, each boy registers at the age of sixteen as a citizen and two years later, after his matriculation, his call-up may come. At this stage applications for postponement or exemption are heard. Then the S.A.D.F. determines how many men it requires in that year,¹ and this number will be chosen by ballot from those who registered. Those passed over by the ballot are free from military service, but may volunteer to serve if they wish.

In their first year, those selected by the ballot, known as ballottees, undergo continuous training for a period of nine months. For the first three of these months they go to one of eight basic training units, after which they are sent to various Full-time Force units.²

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1. Currently around 16,000 men are being called up each year. A further consideration that the S.A.D.F. has to hear in mind here is the necessity of obtaining enough matriculants of each language and in each branch of the service to assure the flow of officers to the Citizen Force. See below, p. 6.
 2. See below, p. A 22.

All these units are bilingual. It is only after this nine-month, unbroken stage of training has been completed that the ballotees go into unilingual or bilingual Citizen Force units. Around 4,000 men enter the training system each quarter. In their second and third years the ballotees undergo further training periods of three weeks each. Then at the end of the third year they go into the Citizen Force Reserve. On returning to civil life, ballotees are entitled to wear a highly prestigious, special blazer.

Officers for the Permanent Force are recruited in two ways. First, they may come in directly from the outside, either from the Citizen Force, the Commandos or from civilian ranks. Second, they may enter with a degree in military science from the military academy.

Besides the military academy, there are three military gymnasia, one for each branch of the service. Their authorized strength is 750 for the Army, 750 for the Air Force and 365 for the Navy. The course in each lasts about a year. Gymnasium candidates are all volunteers, and, because of the large number of applicants, the ballot system is again employed to fill the vacancies. Those failing this ballot are not excused by their application from being placed on the main "statutory ballot".

The Army selects about a hundred of its gymnasium students as candidates for officer training at the military

academy. They may attest in the Permanent Force at any time during their year at the gymnasium and are then given three-year appointments.

3. The Citizen Force

The Citizen Force today has a strength of around 33,000 men, drawn in approximately equal proportions from all areas of the country. In the interests of morale and esprit de corps, as well as of convenience, ballottees from the same geographical area are grouped together in one unit whenever this is possible.

The language medium of a Citizen Force unit depends to a large extent on the area on which it is based. A unit from an Afrikaans-speaking district, for example, will use Afrikaans. Where the district is half Afrikaans and half English, the unit will be bilingual. Provisions are made to change the language medium of a unit when necessary. At the moment, the S.A.D.F. is working on the principle of two Afrikaans units to one English in determining the language distribution of units. Supporting units -- for example, transport -- are generally bilingual, as they may be called upon to serve with any section of the Citizen Force.¹

1. For a fuller discussion of the problems involved in the division of units by language, see p. A17 below. This policy has not been implemented without some friction. Cf. the excepts of speeches in the House of Assembly cited below at pp. A31-34.

Appointment of a ballotee to a Citizen Force unit is made prior to his basic training. In determining to which unit a man will be attached, it is not so much his language that is of importance as his probable location after his nine-month service period is completed, for it will be remembered that he still has to undergo "non-continuous" training in the form of evening parades and two further training periods of three weeks each in his second and third year. As Brig. Hartzenberg put it, "we want an esprit de corps to be nursed along during non-continuous training. If the location of the unit is right, men can get together during the week." Consequently, if a ballotee is going on to Pretoria University, he will be assigned to an Afrikaans unit there or, if to Natal University, to an English unit in Natal. The posting to a unit can be subsequently altered, if made necessary by a change in the ballotee's plans.

Officer candidates in the Citizen Force follow a different course of training from the ordinary ballotees. Instead of three, they do six months basic training, after which they go before selection boards. If successful here, they are given a temporary commission and attached for their further three months to a Full-time Force unit, in which the two languages will be pretty thoroughly mixed. They then return to civilian life and, after spending

their two further three-week periods, they receive permanent commissions in the Citizen Force if their service careers have proved satisfactory up to this point.¹ The language of the officer candidate is not taken into consideration when this final selection is made.

Since 1962, the Citizen Force has had authorization for its own staff corps. The authorized strength is 313 people, but it has been built up only very slowly. Before this, staff work for the Citizen Force was done entirely by the Permanent Force.

4. Commando Units

The Commandos' present rôle has been officially described as follows.

The Commandos are territorially organized part-time volunteer infantry units spread over the length and breadth of the Union. They are lightly armed. Capable of very rapid mobilization in their own areas, they are intended primarily for internal security tasks, but may be used to reinforce the Citizen Force.²

Not all members of the Commando units are volunteers today. Every year ten ballottees are injected into each unit. These

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1. The number of commissions granted depends on the number of vacancies, although some are granted where no vacancies exist. Such officers are put on "List A" and may be moved into a unit at any time.
 2. State of South Africa, Year Book, 1963, p. 53.

ballottees train for three weeks for each of four years but not for the concentrated period of nine months like other ballottees. Although most Commandos play an infantry rôle, there are also some Air Commandos, who own their own aircraft and act as spotters, etc.

Until 1962 Commando units were all Afrikaans-speaking. Some English units have now been established (there were 25 of them in 1963).¹

The Permanent Force appears to exercise only slight control over these units -- "we find a commanding officer and let him carry on" was the way Brig. Hartzenberg put it. The units are still mostly composed of farmers, and although the men in them give up three weeks every year, they do not have as much noncontinuous training (evening parades and the like) as is given trainees in the Citizen Force.

II LANGUAGE STRUCTURE OF THE S.A.A.F.

1. The Permanent Force

Because of the general disinclination of the South Africans to release figures concerning, even indirectly,

1. State of South Africa, Debates of the House of Assembly, February 12, 1963, col. 1152. For further details on this topic, see p. A18 below.

the actual strength of the S.A.D.F., we have been unable so far to obtain any precise breakdown by language of the forces. There are, however, some indicators.

The South African census of 1960 gave the following distribution by home language¹ of those in the "member armed [forces]" category.

TABLE I

South African Armed Forces: Home Language
Urban/Rural and Sex

MEN

	Total		Home Language							
	Both		Eng.		Af.		Others			
	No	%	No	%	No	%	No	%		
Urban	4121	100	103	2.5	1127	27.3	2862	69.4	29 0.7	
Rural	623	100	9	1.4	194	31.1	414	66.5	6 1.0	
Total	4744	100	112	2.4	1321	27.8	3276	69.0	35 0.7	

WOMEN

	Total		Home Language							
	Both		Eng.		Af.		Others			
	No	%	No	%	No	%	No	%		
Urban	9	100	1	11.1	4	44.4	4	44.4	-	
Rural	-	-	-	-	-	-	-	-	-	
Total	9	100	1	11.1	4	44.4	4	44.4	-	

Source: South Africa, Census, 1960.

1. The corresponding question in the South African census to the Canadian mother tongue one asks the respondent to state which language is most commonly spoken at home. An answer of "Both" would mean that English and Afrikaans are both used as normal languages of the home.

The value of these figures is clearly thrown in doubt by the small number of persons included in the category. In 1960 the Permanent Force had an authorized strength of 9,019 which would mean that the above is clearly an undercount. One possible reason for this may be that Air Force pilots, for example, were included under the "air pilots" and not the "member armed" category. Similarly, trades personnel might have been counted as carpenters, mechanics, etc., with the result that only the administrative sections of the armed forces were analysed in the above figures. This qualification aside, the figures show that the Afrikaners dominate the English by a ratio of roughly 5:2.

Rather more reliable percentages were provided by Brig. Hartzenberg. These, however, are based on the adherence of the officers and men of the Permanent Force to either Afrikaans or English churches. Although this division is a fairly sound indicator, it cannot be considered as exact as a breakdown specifically by home language.

TABLE II

South African Permanent Force (officers and other ranks):Religions Adherence

Date	Total Strength	English Churches		Afrikaans Churches		Whole white population ¹
		Permanent Force	%	Permanent Force	%	
		No		No		
August 1946	4,077	48.3	1,973	51.7	2,104	53.8%
June 1947	5,654	48.1	2,721	51.9	2,933	53.8%
June 1952	5,705	46.9	2,681	53.1	3,024	53.1%
June 1964	13,384	30.7	4,119	69.3	9,265	52.4%

The gap in information for the twelve years following 1952 is tantalizing. The improvement of the Afrikaners' position in the Permanent Force can be linked with the entry into power of the Nationalist Party in 1948. Until 1952 the Government was restrained from turning its attention to the armed forces by the economic difficulties troubling the country at large. After this time, we can see that the English position, although increasing in absolute terms dropped proportionately sixteen percentage points in favour of the Afrikaners. It would be interesting to know whether this was a gradual process or whether the main drop took place in a couple of years in the late fifties.

1. Source: 1946, 1951 and 1960 census data.

A breakdown of officers by home language is not available as such. Brig. Hartzenberg was able, however, to give Prof. McRae some figures relating to all appointments to commissions in the Permanent Force during the period from January 1, 1962 to November 30, 1964. This, it will be remembered, was a time of crisis for South Africa. There was no large recruitment campaign to attract these applicants: they simply come forward on their own, either through the military academy or by the "direct entry system", that is men drawn from Commando or Citizen Force units or from civilian life.

TABLE III

Successful "Direct Entry System" Applicants: 1962-1964

	Total		Afrikaans-speaking		English-speaking	
	No	%	No	%	No	%
Army	488	100	408	83.6	80	16.4
Air Force	264	100	184	69.7	80	30.3
Navy	83	100	41	49.4	42	50.6

TABLE IV

Candidates Appointed from the Military Academy: 1962-1964

	Total		Afrikaans-speaking		English-speaking	
	No	%	No	%	No	%
Army	51	100	47	92.2	4	7.8
Air Force	27	100	22	81.5	5	18.5
Navy	25	100	20	80.0	5	20.0

These figures are also the only indications we have as to the relative strength of the two groups in the three branches of the armed services. The Navy is obviously the least popular for Afrikaans-speaking personnel,¹ while the English seem to avoid the Army.

Employee percentages for civilians within the Department of Defence, broken down by home language and official language, are as follows.²

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1. Research is being conducted by the S.A.D.F. at the moment into the reasons for this deficiency.
 2. J.J.N. Cloete, Bilingualism In the Public Sector In South Africa. Report specially prepared for the Commission, p. 123 and p. 125.

TABLE V

Department of Defence: Percentage of Employees
by Home Language and Official Language

Home Language	Total	Degree of Bilingualism		
		Fully	Reasonably	Not
Afrikaans	85	50	45	5
English	15	40	55	5
Other	-	-	-	-

The total number of employees is 4,184. The percentage of those with English as their home language is rather lower than in most government departments.

2. The Citizen Force

Little is known of the language structure of today's Citizen Force. In answer to a question in the South African Parliament on February 25, 1957, the Minister of Defence gave the following figures.

At present there are 84 units and 116 sub-units with Afrikaans and 68 units and sub-units with English as their medium of instruction and 61 bilingual units and sub-units.

The proportion between Afrikaans and English language units has probably changed considerably since 1957, as the principle

now followed, as we noted before, is to have if possible Afrikaans and English units in a 2:1 ratio.

The language of these units was decided when most of their members were on extended service (i.e., volunteers for an indefinite period). However, today these units are mostly manned by the young ballotees who are acquainted with both Afrikaans and English.¹ Even though their language fluency may be low initially, they will have learned to master each other's language when mixing with members of the other language group in the basic training camp. Consequently, the trend is toward more bilingual and fewer English or Afrikaans units in the Citizen Force.

The language medium of a unit is changed when insufficient men of the right language group are available over a period of two years to post to that unit. In some cases ministerial authority is necessary to effect the change. The conversion from a single to a dual medium unit is not delayed until all the members of the unit have become bilingual: some unilingual personnel may as a result find themselves in a bilingual unit. One special problem here relates to the officers of Citizen Force units, many of whom, as older men, are not bilingual.

1. All matriculants today must be bilingual.

(No language qualification is imposed on personnel of the Citizen Force). There is little that the S.A.D.F. can do about this matter but to wait until the situation changes with time.

The use of the unit's geographical basis as a determinant of its language is not altogether a happy one, as population shifts in the country at large have tended to render the distribution outdated and, consequently, unrealistic. In the Manpower Planning and Research Committee of the S.A.D.F., it was agreed in 1964 that an intermediate census was needed. At present the S.A.D.F. is seeking some form of return every two years. When this information is available in 1966 the boundaries of the military areas will be revised and the language medium of units changed where necessary.

3. Commando Units

Until 1962, these were all Afrikaans-speaking. However, by February 12, 1963, there were 25 English language units. At that time these appeared to exist more on paper than in actual fact, as none of them was up to its authorized strength. Altogether only 7.6% of the authorized officer positions were filled, while the comparable figure for the other ranks was 10.0%. Moreover, one third of this actual strength was made up of ballottees. In ten of

1

the units the ballottees made up the entire actual strength.

If, taking the figures given in the South African Hansard in 1963 and Brig. Hartzenberg's figures for 1964, the following comparison between the position of English and Afrikaans may be made. Unbracketed figures are those given by one of the two sources mentioned above: bracketed figures are those computed from the given figures.

TABLE VI

Commando Units: Strengths by Language Medium

	No. of units men in units	Total no. of Ballottees	Volunteers
Afrikaans	(175)	(46,220)	(1,737) (44,483)
English	25	780	263 517
Total	200	47,000	2,000 (45,000)

Although these figures cannot be considered reliable because the two sources were not referring to the same year, they do illustrate Afrikaner dominance in the Commandos.

1. The full figures are reproduced as Appendix A.

III LANGUAGE USAGE IN S.A.D.F.

Section 52 of the South African

Defence Act, 1912, provided that:

All officers and non-commissioned officers of the Defence Forces shall be instructed in giving and receiving executive words of command in each of the official languages of the Union, and all citizens shall be trained and instructed in the official language which is best understood by them.

Whenever it is not possible in any unit to carry out the instruction and training entirely in one of the official languages, then provision shall as far as possible be made for the instruction and training of the minority of members of the unit in the language best understood by them.¹

The provisions of the Act notwithstanding, language usage up till shortly before the Second World War was almost entirely English. This was probably due, not only to the difficulties involved in establishing bilingualism in a field demanding such rapid and coherent communication as the armed forces, but also to Afrikaans simply not having developed the terminology needed to cope with twentieth century technology.

It was only during the Pirow period at the Defence Ministry, in the years just before the Second World War, that the first attempt was made to introduce Afrikaans. Examinations were held half in one language and half in the other, while an

1. This section, cited by J.J.N. Cloete, op.cit., p. 31 is reproduced substantially as Section 137 of the Defence Act, 1957.

effort was also made to use the languages alternately within the Department of Defence. However, during the War these innovations were dropped. It was not until 1948 that the determined effort to introduce Afrikaans, which has produced today's system, was begun.

Brig. Hartzenberg provided us with a written statement of the language policy followed by the S.A.D.F. today. It is quoted in full below:

1. POLICY PRESCRIBED IN SADFO 35/62

(a) Permanent Force

Afrikaans and English must, with the following exceptions, be used monthly in succession for all correspondence within the Permanent Force with other Government Departments, Provincial Administrations and the Railways and Harbours Administration (i.e. the months in which Afrikaans and English are used will alternate each calendar year, e.g. if Afrikaans was used in January 1956, English will be used in January 1957).

Chaplains - Chaplains will conduct correspondence in the language medium of their respective churches. All correspondence in connection with church matters with the different chaplains or with representatives of the different churches will always be in the language medium used by the church concerned.

(b) Members of the S.A. Defence Force and other individuals.

Correspondence to a member or any other person will be conducted in his mother tongue, provided, however, that a letter received from a person whose mother tongue is unknown, will be replied to in the same language as the letter.

(c) Single medium units of the Citizen Force and Commandos

Official correspondence from and to single medium units will at all times be conducted in the language prescribed for them.

2. TRAINING ESTABLISHMENTS¹

Training programmes are drawn up on a basis of half of the periods in the one language and the other half in the second official language, the daily medium of instruction alternating between English and Afrikaans.

3. FULL-TIME FORCE UNITS

The language policy applicable to the Permanent Force, that is on the 50/50 basis, will be strictly applied in the Full-time Force.

4. DUAL MEDIUM UNITS

- (a) Correspondence from such units to members will follow the home language of the members concerned.
- (b) Correspondence with higher formations and headquarters will follow the language of the month.
- (c) During continuous training the language will vary according to the training programme and during non-continuous training (monthly parades) the two languages will be used alternately.

5. Single medium units will use the language of the units concerned, but will receive and act on instructions formulated in the other language.

6. Combined exercises are arranged alternately in the two languages and down to unit level, only the appropriate language will be used, while the official language of any unit may be used within such unit.

1. These are mainly made up of Full-Time Force units, which consist of nine-month ballotees plus the Permanent force element that instructs them. As units they are separately organized and have the same language policy as the Permanent Force itself, that is, they are bilingual and the private

7. At conferences the language of the month is generally used but those present are free to use whichever language they wish. Minutes, etc., are recorded alternately in the two official languages.
8. Where the S.A. Defence Force participates in exercises in which foreign nations are participating, only English will be used.
9. In stores accounting, bookkeeping and accounts, both official languages will be used as far as possible.

According to Gen. Hiemstra, the language rotation system in the armed forces, which has been in effect since about 1948, is working fairly well. The changeover to this system took some time, and it demanded a lot of the individual at first by forcing him to think in the language in which he was speaking or writing. This, in turn, has had the happy effect of promoting bilingualism in all concerned. There is still a possibility of some delays occurring, but these are counterbalanced by the rush to complete business in the language in which one is most at home before the start of a new month sees the introduction of the other language.

The Department of Defence

As for the Department of Defence, the practice is that followed by some other government departments, namely, the monthly rotation of languages. "Official correspondence within the department or with other departments or outside bodies is conducted in one official language one month and in the other during the succeeding month. The language used : in connection with the annual report is alternated year by ¹ year". Thus, if a letter is sent to a department, the language of the month is used. Queries from individuals or M.P.s are answered in the writer's language. In initiating correspondence, the Department tries to use the recipient's language as judged by his name, but when dealing with a firm it will use the language of the month unless the firm is clearly English- or Afrikaans-speaking. In all cases of doubt the language of the month is used.

In correspondence with the armed forces, the Department uses the language prescribed for single-medium units when addressing them, but employs the language of the month when dealing with dual-medium units. Chaplains are addressed in the language of their denomination.

1. J.J.N. Cloete, op. cit., p. 103

The practice concerning oral usage within the Department is more difficult to clarify. No doubt in informal conversations much depends on the mother tongue of the participants. General Hiemstra pointed out that at meetings within the Department each officer remains free to speak his own language, and in fact both languages are heard. On the General Staff, however, "we are all Afrikaners"; consequently, only Afrikaans is spoken at its meetings.

The Service Dictionary

The problems involved in finding Afrikaans equivalents for technical and scientific terms have been tackled and, since the introduction of the new Service Dictionary in 1954, seem largely to have been surmounted. A Defence Terminology Board, set up in December 1949, was given two main terms of reference.

To standardize and publish the Afrikaans technical terminology required by the three areas of the service, and to make recommendations in the connection with the promotion of language equality in the Defence Force in general.

The new dictionary was intended to amplify the previous Military Dictionary of 1941. Its scope is indeed broad, for, in the words of the Chairman of the Board,

M.T. Posthumus, "all sciences, arts and crafts are made tributary to the science of war. Music terms, e.g., are required by the military bands, whilst mathematical and mechanical terms are no less essential than those in connection with explosives and ballistics."¹ In the end, roughly 36,000 entries were made.

To obtain the necessary equivalents, the Defence Terminology Board used several methods. First, they were perfectly prepared to coin a new term if a satisfactory one did not already exist, although they preferred to form such terms from an existing base (for example, "cross-country flight" becomes veldvlug). Second, the Board turned to the Dutch language to see if it had a suitable term in use. Third, the Board felt free to look at Dutch terms that had either become archaic in Holland or had been preserved in Afrikaans but only in a purely figurative sense. An example of the former would be the revival of the old Dutch word for forecastle -- voorkasteel -- and of the latter, the reversion of comander boeg gooi from its present connotation of "to change the subject" to its original meaning of "to change tack".

1. Service Dictionary, 1954, p. XVII

The compilers of the Dictionary did not pretend to have produced a definitive work. However, even if their translation of a term might not be altogether happy, they felt it necessary, in the interests of standardization, to lay down that "no member of the Defence Forces should depart from the terms given in this Dictionary without prior authority."

Terminology boards are attached to each arm of the defence force "to standardize and publish the Afrikaans technical terms..., as well as to make recommendations in general in connection with the advancement of language equality in the Defence Force." (S.A.D.F.O. 183/61). Also attached are posts for translators.

Documentation

Prior to the establishment of the rotation system all documents appeared in English. Today the practice regarding the language in which documentation is published varies. Ideally, all training manuals would be printed in both languages, and, indeed, handbooks compiled in South Africa are so produced. More technical materials, such as texts in electronics, generally come from abroad and remain in English. In such a case, however, an instructor must prepare his lecture on the material in Afrikaans and issue a list of terms to his class in both languages. Brig Hartzenberg is of the opinion that

for the most part "the more technical the matter the more we lean to English as a medium of expression."

Examinations are set in both the official languages, as are all regulations and orders.

IV REQUIRED LANGUAGE ABILITY AND LANGUAGE TESTS IN THE S.A.D.F.

1

All ranks of the Permanent Force are bilingual. In the Navy, the ships are bilingual throughout, being manned by Permanent Force personnel only. Some of the pilots in the Air Force belong to Citizen Force squadrons, but they are only chosen if they have bilingual qualifications. However, only Permanent Force men are tested for language ability, as the members of the Citizen Force and the Commandos are exempt from this requirement.

Nevertheless, language tests are not a guarantee of fluent bilingualism. Even though the Afrikaners are in a majority in the S.A.D.F., its English-speaking members would seem to speak English more often than their proportion would

1. An exception is made in the case of artisans. For further details, see Appendix B where the order relating to language tests, U.D.F.O. 190/56, is reproduced in full.

justify. According to Brig Hartzenberg, "the Afrikaner speaks English more readily than the English can speak Afrikaans. Hence there is a tendency for the Afrikaner to switch to English to ease the conversation, if the English speaker seems to be labouring."

As a "cadre for administration and training", the Permanent Force feels the need for its personnel to be bilingual not only theoretically but also effectively so. It realizes that the language tests are only general and do not examine the special terminology that an instructor, for instance, would need. Indeed instructors, as such, are chosen for their flair for bilingual explanation. Brig Hartzenberg cites the example of a man in the control tower of an airport who, because a pilot can react more quickly if addressed in his own language, must be able to bring an aircraft down in either language.

The language test is administered by the Permanent Force and is the same as the test for the public service as a whole.¹ The passing standards are also similar: other ranks must have a level IV standing in their main language and a level VI in their second, while officers must have a level II and a level IV respectively. The test for officers

1. For further details of the test, see the Cloete study.

is written only when they are passing from lieutenant to captain or from captain to major. The other ranks must take the test for promotion to and in non-commissioned rank. Unlike the case in other branches of the public service, once having been passed, the test is not repeated. If a man fails, he can be re-tested after six months. In some cases men have been promoted without a pass in the language test and it is recognized that some are permanently incapable of passing. All personnel must, however, at least attempt it, for it is held up as a standard at which to aim.

The opinions of Gen. Hiemstra and Brig Hartzenberg on the tests were ones of qualified approval. Hiemstra felt that the oral section of the present test (which is quite time-consuming) could be dropped, while Hartzenberg would prefer a test more directly linked to the job and felt that the spelling tests, for example, were inessential. Apparently the S.A.D.F. was experiencing some difficulties in getting poorly educated men to a level IV in their own language. The level VI standing in the second language was often less of a problem, as such persons tended to be pretty thoroughly bilingual.

V REACTIONS TO THE S.A.D.F. CHANGES IN PARLIAMENT

The rapid growth of the Afrikaner rôle in the S.A.D.F. from its below proportional strength in 1948 to its position of dominance today has not taken place without some friction. Evidence of this can be found in the periodic eruptions of irate members of the United Party in the debates of the House of Assembly.

In 1954, the Leader of the Opposition, Sir de Villiers Graaf, pointed to the enforced retirement of many leading officers as a cause of much "dissatisfaction" in the Defence Force and asked for a clarification of the policy regarding the designation of units as either English, Afrikaans or ¹ bilingual. In the same year, another United Party member, Mr. Trollip, attacked the Government policy of changing the names of regiments and cited one case in particular -- the transformation of the Midland Regiment into the Scheepers ² Regiment. As a result, he charged, what had been a viable

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1. State of South Africa, Debates of the House of Assembly, May 12, 1954, cols. 5100-5101.
 2. Commandant Scheepers was shot by the British after a court martial had found him guilty on five counts of murder. To the Afrikaners, he remains one of the martyrs of the Boer War: to English-speaking South Africans he is quite simply a murderer who met his just deserts.

unit was reduced to a mere shell, for all but three of its
officers had resigned in protest.
¹

The arguments of the United Party representatives were answered inter alios by Mr. van Rensburg. His reply states the position of the Nationalist Party so well that it is worth quoting a section from it. After the formal, preliminary diatribe against the "British Jingos", who forgot that it was the British who "burnt down homes over the heads of innocent women and children", etc., Mr. van Rensburg expressed his main point.

The criticism we have had in this debate from the side of the Opposition was inter alia that Afrikaans should be allowed no place in the Defence Force ... They [the Opposition] want to keep the Defence Force an English-speaking nest. For that reason they object to the new set-up of regiments. If two regiments with English as the language medium are combined, because they do not have enough recruits and cannot obtain enough recruits to bring them to full strength, and if a new regiment with Afrikaans as a language medium, for which sufficient recruits can be found, is established then it is according to those members a violation of the military tradition of South Africa. The argument really amounts to this -- that the language medium of the Defence Force must remain English. Afrikaans-speaking boys must serve under English-speaking officers. In other words, the Defence Force must in all respects carry the stamp "Made in England". (2)

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1. State of South Africa, Debates of the House of Assembly, May 12, 1954, cols. 5123-5125.
 2. Ibid., May 13, 1954, cols. 5149-5150.

Again, in 1956, we get some inkling of the changeover that was taking place. After asking the Minister of Defence the reasons for the increasing number of resignations of men who have since "gone beyond the borders of the Union", Mr. Durrant of the United Party provided an answer himself. He cited an example of sergeant who "was summarily taken away from his jobs while a junior, who was 17th on the promotion list, was promoted over his head." Mr. Durrant went on: "here is a case of a man who has devoted his whole life to the permanent force and who has desired to make a career of it. It is the case of an English-speaking South African who took every step to qualify for his job... He was victimized."¹

The following year Capt. McMillan, Member for Durban Centre, complained that the English-speaking regiments "cannot get used to the idea" and "feel hurt" on account of a declaration by the Minister that the use of "Sir" when addressing an officer was to be dropped in favour of the Afrikaans practice. ("Yes, Captain" was to replace "Yes, sir".)²

1. Ibid., May 21, 1956, cols. 5835-5838.

2. Ibid., May 22, 1957, cols. 6469-6470.

The system of units based on language distinctions came under attack in 1958. One Member thought it "absolutely wrong, absolutely wicked"¹ to introduce this policy, while another stated his dislike of the system even more emphatically.

To say that this defence force, this unilingual, apartheid Defence Force, kraaled off into language units, is going to create a happy home for both language groups is about the weakest joke that could have been cracked in this House. (2)

Throughout the fifties there was, evidently, an acute consciousness on the part of English-speaking South Africa that its position in the Defence Force was under attack.

Apart from the directives leaving the Ministry of Defence on such matters as name changes of regiments, the reports of the Debates indicate two much more serious things: namely, the fairly widespread resignation of English-speaking personnel and the promotion of Afrikaners over the heads of their compatriots.

There can be no doubt than in 1948 the Afrikaner in the armed forces felt himself to be the underdog. Not only was he slightly underrepresented in comparison with his position in the nation as a whole, he was also working in an

1. Ibid., September 5, 1958, col. 3040.

2. Ibid., col. 3087.

atmosphere that was almost exclusively English. The Nationalist Government set about to rectify this matter, although the manner in which it tackled the problem could at times only be called tactless.

By 1964, however, with 69 per cent of the Permanent Force belonging to Afrikaans churches, the balance has now swung the other way: today it is the English-speaking section that is underrepresented, as is the case in the public service at large. However nobody seems too worried about this situation. Generally speaking, the English appear somewhat reluctant to leave civilian life in order to serve in the Afrikaans-dominated defence force, which is seen as the creature of the Nationalist Government: and the Afrikaners are content to shoulder the burden, in view of the power that accompanies it.

VI EVALUATION AND CONCLUSION

The most significant points concerning the linguistic and cultural aspects of the South African Armed Forces can probably best be summarized as follows:

1. Since the victory of the Nationalist Party in 1948 the topmost echelons of the Armed Forces have been thoroughly Afrikanerized. This seems to have been done more for reasons of state security and political reliability than for linguistic purposes.
2. Within the same period and particularly since 1952, language usage in the forces has been changed very extensively. A military system operating almost exclusively in English has been converted into an apparently successful bilingual system, characterized by a fully bilingual central administrative core. This development has been accompanied by increased Afrikaner interest and participation in the armed forces.
3. The enormous technical deficiencies of the Afrikaans language have been tackled vigorously and substantially overcome, at least at the general instructional and administrative levels. English still predominates in technical and scientific fields, effectively

independence of the Union Parliament, and its exclusive sovereignty in South Africa. For the South African constitution, however, the critical question was whether the binding force of the entrenched clauses had been affected. The majority of constitutional authorities contended that since the South Africa Act was a British statute extending to South Africa, and since the Statute of Westminster removed the constraining power of the Colonial Laws Validity Act and specifically empowered the Union Parliament to repeal or amend any British Act extending to South Africa, the Union Parliament could repeal or amend the South Africa Act in whole or in part, including the entrenched clauses,¹ or to legislate repugnantly to it.¹ In short, according to this view, Parliament was free to adopt whatever legislative procedures it chose, and no court of law was competent to enquire into them.

This certainly was the opinion of Stratford, ACJ, when, in his judgement in the case of Ndlwana v. Hofmeyr, 1937, he said, in part, "Parliament, composed of its three constituent elements, can adopt any procedure it thinks fit; the procedure expressed or implied in the South Africa Act is as far as courts of law are concerned at the mercy of Parliament like everything else..."² The case arose from an application from one, Ndlwana, to have the Separate Representation of Natives Act, 1936, declared invalid.

1. For a list of these authorities, see H.J. May, The South African Constitution (Cape Town, 1955), p. 46n.

2. Quoted by May, op. cit., p. 48.

That Act removed the Native (i.e. African) voters of the Cape from the common roll and provided, instead, a form of separate representation. It therefore fell within the subject of section 35, one of the entrenched clauses; and Parliament had, in fact, followed the prescribed procedures. Ndlwana's contention was that since the passing of the Statute of Westminster, these procedures were no longer necessary, with which Stratford, ACJ, agreed, and that the Act was therefore invalid; and it was at this point that the Acting Chief Justice disagreed on the ground already stated.

This, then, was the state of the law when the Separate Representation of Voters Bill was introduced in the House of Assembly in March 1951. The Government had accepted the view of its legal advisers and proposed to pass through Parliament sitting bicamerally and by bare majority, a Bill that would remove the Coloured voters of the Cape from the common roll and place them on a separate roll for the election of four representatives to the House of Assembly. It argued that Parliament was now free to adopt this procedure, the provisions of the entrenched clauses notwithstanding, and the Speaker upheld this view. The Act was duly passed in this way, assented to, and promulgated. Harris and four other Coloured voters contested the validity of the Act.¹ The Cape Division of the Supreme

1. Harris v. Donges. (Coloured Voters case), 1952.

Court held, however, that it was bound by the case of Ndlwana v. Hofmeyr and accordingly rejected Harris's application. On appeal, the Appellate Division unanimously upheld the continuing force of the entrenched clauses and consequently declared the Act invalid. Centlivres, CJ, giving the judgement of the Court, stated that the South Africa Act defined Parliament for the purposes of amending or repealing the entrenched clauses as the two Houses sitting together and acting by a two-thirds majority, and unless it did so it was not "Parliament" as defined. The Statute of Westminster did not change the manner in which Parliament must operate for the purpose of passing legislation, and indeed, for it to have done so the British Parliament would have had to go out of its way to upset the basis of the agreement on which the Union was founded.¹

These were the opening rounds of the constitutional crisis that rocked South Africa until 1956. The full story of this crisis does not concern us,² but the main events in it may be mentioned. The Appellate Division's decision was one which the Government was not prepared to accept. It consequently introduced a bill which purported to transform Parliament into a final court of appeal on constitutional issues. This Act was passed and promulgated in June, 1952, as the High Court of Parliament Act, 1952.

1. May, op.cit., p. 54 and n.

2. The best brief account is to be found in Geoffrey Marshall, Parliamentary Sovereignty and the Commonwealth (Oxford, 1957), and see also May, op cit., pp. ix-xiv, and 36-78.

Using the procedures contained in the Act, the Government brought the case of Harris v. Donges before this High Court. All Opposition members boycotted the proceedings both of the judicial committee and of the High Court itself; so that the Court that reviewed the case consisted simply of all Nationalist M.P.s and Senators. On August 27, 1952, it solemnly declared that the Appellate Division had erred in its judgement and revalidated the Separate Representation of Voters Act.

Meanwhile, however, Harris had instituted proceedings to question the validity of the High Court of Parliament Act; and shortly after the High Court judgement the Cape Division held the Act which established that "Court" invalid.¹ On appeal, the Appellate Division unanimously confirmed the Cape Division's decision. Fortunately for the tranquility of the country, which by now was in a highly inflamed state, the Government did not press the matter to the point of appealing to the invalidated High Court.

The issue, however, was resolved in the end by packing the Senate,² which enabled the Government to secure the necessary two-thirds majority at a joint session to pass the South Africa Amendment Act, 1956,³ which repealed section 35 but left untouched the entrenchment of section 137 and revalidate the Separate Representation of Voters Act, 1951; and South Africa's most

1. Minister of the Interior v. Harris (High Court of Parliament case), 1952.

2. By the Senate Act, 1955. See below, pp.

3. For the further history of this Act, see p. , for

dramatic constitutional crisis was at an end.

Throughout this period the Government argued that the Appellate Division's decisions derogated from South Africa's sovereignty, by denying its Parliament the legislative freedom enjoyed by the British Parliament. There was, however, no substance in this contention. Centlivres, CJ, put the point with great clarity in the Coloured Voters case, when he said, "the only legislature which is competent to pass laws binding in the Union is the Union Legislature. There is no other legislature in the world that can pass laws which are enforceable by Courts of Law in the Union."¹ He also pointed out that "to say the Union is not a sovereign state simply because its Parliament, functioning bicamerally, has not the power to amend certain sections of the South Africa Act, is to state a manifest absurdity."²

By the time the Republic of South Africa Constitution Act was passed -- and, indeed, for a long time before -- the independence of the Union was complete. Where the Statute of Westminster had laid the foundations for the exclusive and unfettered legislative competence of the Union Parliament, and the Royal Executive Functions and Seal Act had provided for the independence of the Union Executive, the Privy Council Appeals Act, 1950, by abolishing appeals to the Privy Council, conferred judicial autonomy on the Union's Supreme Court. When, therefore,

1. Quoted by Marshall, op.cit., p. 148.

2. Quoted by May, op.cit., pp. 55-6.

Centlivres, CJ, said that "no ther legislature in the world... can pass laws which are enforceable by Courts of Law in the Union", he passed final comment on the constitutional position.

One further point perhaps requires mention. It arises out of suggestions that were made by various opponents of the Republic. In more moderate form there was the suggestion that the Governor General should withhold his assent from any legislation to establish a republic on the ground that such legislation would involve the renunciation of allegiance to the Crown which was owed by all South African citizens as subjects of the Crown. In more extreme form, the idea was canvassed that the Queen should be petitioned to instruct the Governor General to withhold his consent. While these suggestions hardly merited serious political attention, they are worth mentioning in order to stress the existing position of the Crown in relation to South Africa. By the time under discussion, this position was governed by three fundamental principles: firstly, that the Governor-General was the personal representative of the Crown; secondly, that the Crown was a divisible Crown and that the Queen as Queen of South Africa was distinct from the Queen of the United Kingdom; and thirdly that the Queen of South Africa, or her representative, the Governor General, was required by convention, but also partly by law, to act on the advice of her South African Ministers. It is true that certain areas of discretion remained; it was also true that the Queen formed an essential element of the Union Parliament;

but the conclusion could not legitimately be drawn from these facts that she retained an effective power to veto legislation duly passed by the two Houses of Parliament.

In summary, then, by 1961 (and, indeed, well before that time) the Union of South Africa was a sovereign independent state, it was subject to no legal authority other than those authorities named in its Constitution, and, subject only to that Constitution, those authorities were competent to confer on the Union whatever constitutional framework they desired. "The State remains the same," said Dr. Verwoerd in introducing the Constitution Bill, "but this Parliament, in terms of the authority it has, gives a new form to the State and creates a new legislative authority for the State."¹ And this, for the Nationalist, imbued the act with a special significance apart altogether from the object it sought to achieve. This significance was eloquently expressed by Dr. Verwoerd in the same speech:

This time we are giving our own Constitution to our own fatherland. In that sense it will have a deeper meaning for us because its existence is due to our own free will and our own deliberations alone. In saying that I am not belittling the fact that the Act containing the Constitution which was given to us in 1910 by the British Parliament was the fruit of a National Convention which sat here in South Africa. I am not belittling that in the least. Nevertheless, whilst I appreciate what we had and how it came about, that cannot derogate from my gratitude and joy because of the fact that our Union Parliament is now itself able to give a Constitution to the Republic of South Africa.... It is based on our own past; it is our own creation today and our own gift to posterity... The future is not in our hands, but the laying of the foundation is. I lay this Constitution in your hands and in the hands of those who will follow us.²

1. House of Assembly Debates, vol. 106, 1961, col. 346.

2. Ibid., cols. 350-351.

The method by which this was accomplished was by Act of the Union Parliament sitting in normal fashion, that is to say, bicamerally. The introduction of the Bill into Parliament had been preceded by the holding of a referendum in accordance with the provisions of the Referendum Act.¹ The referendum, however, was unknown to the South African Constitution, and the holding of it was, therefore, not mandatory. Nor, in terms of the Act itself, was Parliament obliged to give legislative effect to its result. In spite of the fact that a referendum was held, Parliament was acting under its own authority as conferred on it by the South Africa Act and its Amendments, the Statute of Westminster and the Status of the Union Act. By this time, too, the only remaining entrenched clauses in the South African Constitution were sections 137 and 152 governing the equality of status of the two official languages. Apart from these sections, then, the constitution was completely flexible and clearly within the competence of Parliament sitting bicamerally and acting by bare majority to amend or repeal.

The only doubt that arises, therefore, with regard to the legal effect of the Republic of South Africa Constitution Act concerns the two named entrenched clauses. The amendment or repeal of these two sections required a two-thirds majority of the total membership of both Houses of Parliament in joint session; and the Appellate Division had held in 1952² that the

1. No. 52 of 1960. Strictly speaking, it was a plebiscite, not a referendum.

2. Harris v. Minister of the Interior, 1952.

entrenchment was still binding, the Statute of Westminster notwithstanding. How then could these sections be repealed (in order to be incorporated afresh in the Constitution Act) by Parliament acting by bare majority in each House separately? To one of South Africa's leading constitutional lawyers at least, the answer is clear: "The purported repeal (and replacement) of the entrenched sections was ineffectual."¹

The Republic of South Africa Constitution Act was enacted, as it has been said, by the Union Parliament. The conclusion of the Preamble therefore reads, incongruously perhaps to the ardent Afrikaner Nationalist but appropriately to the lawyer's sense of continuity,

Be it therefore enacted by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows...

The Act was assented to by the Governor General on April 24, 1961, and came into effect, as prescribed in section 121, on May 31, 1961, on the fifty-first anniversary of the Union. Simultaneously, South Africa ceased to be a member of the Commonwealth.

1. Ellison Kahn, The New Constitution (London, 1962), p. 31.

2. THE SOUTH AFRICAN CONSTITUTION

(i) The Executive

a. The President. The rôle of the President was politically critical in the creation of the new Constitution. Under the Boer Republics the President had been the centre of political power. In the old Transvaal Republic, particularly, President Kruger had exercised a personal dominance that in the end extended not only over the legislature, but over the judiciary as well. No matter was too large or too small for his personal attention and decision. The South African Republic, moreover, had been the cradle of Afrikaner nationalism. It had, at Majuba, forced the half-hearted Imperial Government to restore its sovereignty; it had resisted Imperial pressure to adulterate the spirit of Afrikanerdom by extending citizenship rights to the Uitlanders: it had finally, according to Afrikaner interpretation, been "forced" to declare war on Britain itself, and had resisted the Imperial armies for over two years in the subsequent war. As a focus of nationalist sentiment it survived defeat, and still today the old flag of the South African Republic is prominently displayed at Transvaal meetings of the National Party. The personification of this sentiment is President Kruger. "In a sense," comments W.H. Vatcher, "Paul Kruger has been the foundation stone upon which Afrikaner nationalism has been built."¹

On the other side of the scale the constitutional and Parliamentary structure created by the Act of Union and

amplified by convention was clearly British in origin and inspiration. How would this stand, it was wondered, against the weight of Afrikaner nationalism, with its sentimental attachment to its Republican past? During the War years the answer, it seemed, was "very little". Not only had the Nationalists opposed the Union's entry into the War, but as Germany over-ran France and threatened Britain, they expressed their disenchantment with Parliamentary democracy and leaned in favour of more authoritarian models, although the type favoured varied from the South African Republic model to the out-and-out Nazi one. The Republican Order published in 1941 by the Federal Council of the National Party declared: "Whatever may be said in favour of the British Parliamentary system...it has always been a failure in South Africa when viewed from the nation's point of view." On the other hand, it argued, "the Boer nation, which is the creator and protector of our own South African nationality, brought about a system in the Boer republics which is our own and differs from the British parliamentary system."¹ The Draft for a Republic, published in the following year on the authority of Dr. Malan, while it provided for the office of Prime Minister, envisaged for the President a rôle that clearly went beyond that of a constitutional head of state: "The State President is...directly and only responsible to God."²

1. These extracts are from Vatcher, op.cit., p.70

2. Quoted by Vatcher, op.cit., p.71

These were ominous words; and these and other similar statements remained ominous memories to those who opposed the coming of a republic in 1960.

In the event, whatever it cost within the National Party in persuasion on the one hand and acceptance on the other, the decision was taken to model the Republic on the monarchical system of the Union. But it was not taken lightly. In introducing the Bill, the Prime Minister stated:

The presidency was always conceived as becoming something similar to the position held by President Steyn or President Paul Kruger, a president who would not only be head of state but also head of Government.

He continued, however, that it had been decided in the interest of national unity, not to create a system that "would be so strange to the British tradition, and therefore that of the other section of our population", as well as to the tradition established since Union. And he went on to say:

This caused much more heart-burning than is possibly realized by our English-speaking friends who seem to think that all the sacrifices are being made by them.¹

In general, it might be said without serious distortion, that the office of President replaces the former office of Governor-General as far as possible, and that the only substantial distinction between the two offices is that the former is elective where the latter was not. Even at this point, however, the elective principle is diluted by a system of indirect election. The electoral college consists of the

1. House of Assembly Debates, vol. 106, 1961, cols. 329-330.

members of both Houses of Parliament and is unlikely, therefore, to become the formal register of popular decision as in the United States. The electoral college is presided over by the Chief Justice or a judge of appeal nominated by him.¹ Nominations are made at the meeting of the electoral college,² and must be supported by two members.³ If more than one candidate is nominated, an absolute majority is required for election, and if this is not secured on the first ballot, the candidate with the least votes is eliminated, and the procedure is repeated until the requirement is met.⁴ In the case of equality of votes between the last two remaining candidates (or the original two if only two had been nominated), a further meeting is held, and if the deadlock persists, a third meeting. At that point, a continuing tie in the vote is resolved by the casting vote of the presiding officer.⁵

The normal tenure of office of the State President is seven years, and he is not eligible for re-election "unless it is expressly otherwise decided by the electoral college."⁶ There is no limit, however, to the number of times that this may

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1. Section 8 (1).
 2. Section 9 (1).
 3. Section 9 (2).
 4. Section 9 (6) (a).
 5. Section 9 (7).
 6. Section 10 (1) (a).

be done. Provision is made for premature termination of the
President's period of office.¹ He may not only resign; he may
be removed from office on the passing of a resolution to that
effect by both the House of Assembly and the Senate during the
same session on the ground of "misconduct or inability to
perform efficiently the duties of his office". Such a
resolution must first be considered by a joint committee of
both Houses, and a resolution in favour of appointing such a
committee must be petitioned by at least thirty members of
the House of Assembly and adopted by both Houses. A rather
odd provision requires that when the resolution to remove
the President comes before them the respective Houses must vote
on it without debate.

If the office is vacant or if the President is unable to
perform his duties, the Acting State President shall be the
President of the Senate, or if that office is vacant or the
incumbent unable to act, the Speaker, or, failing that also,
² a person appointed by the Cabinet.

There is, further, a clause dealing with the protection
of the "dignity and reputation" of the President. Anyone
who "commits any act which is calculated to violate the dignity
or injure the reputation" of the President is liable to a
maximum fine of R2,000 or a maximum period of five years'
³ imprisonment. This provision is no doubt intended to

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1. Section 10
 2. Section 11
 3. Section 13.

protect the office itself and also, by extension, to ensure public respect for the nation whose unity the office is supposed to symbolise. It should also, however, be read in conjunction with the Prime Minister's statement that the President's function "will be to be the focal point around which the love and desire for unity of the people must be united [sic]."¹ To that end, the Prime Minister went on, the intention was that the President should be "a person of dignity and a man of stature in the eyes of the people."¹

It is pertinent to comment at this point that the method of electing the State President, particularly when looked at in the light of the provisions concerning the composition of the Senate, virtually ensure that the government party will be able to secure the election of its candidate. In the normal course of events, there would be an overlap,² so that a government may have to live with the choice of its predecessor for two years, but at the end of that period the government would be able to make its own choice. The convention may develop that the choice should not be patently a party choice; but the election of the first President certainly did not follow that course. The National Party nominated Mr. C.R.Swart and the United Party nominated Mr. Fagan, former Chief Justice

1. House of Assembly Debates, vol. 106, col. 343.

2. This could, of course, be avoided either by invoking the procedures of section 10(1)(b), or, less drastically, by reducing the President's term of office. The latter course would involve the amendment of section 10(1)(a) but could be passed by simple majorities in both houses.

of The Union and Leader of the National Union Party. Voting followed strictly party lines. Mr. Swart had been Minister of Justice; he had been responsible for the so-called "Swart Acts"; and he had polled a poor third in the first ballot for the National Party leadership contest on Strijdom's death in 1958. Despite the decisive manner of his defeat in that contest, however, it can be said that he did enjoy considerable respect from Nationalist Afrikaners. He had been one of the die-hards who had followed Malan in rejecting Fusion in 1934, and he had administered the coup de grâce to Hertzog's aspirations to lead a reunited party in 1941. Partly as recognition of that respect and partly, perhaps, as a consolation for his loss of Prime Ministerial status, he was appointed Governor-General in 1959. But to the non-Afrikaner, white and black alike, Mr. Swart was associated with a narrow and rigid Afrikaner nationalism and with a legal structure widely condemned as oppressive and contrary to the rule of law.

The powers of the President appear impressive at first reading, although they are largely limited in practice. The major powers are listed in section 7. There it is stated that the President is Commander-in-Chief of the Defence Force, that he has the power to dissolve the Houses of Parliament either individually or simultaneously, to appoint Ministers and Deputy Ministers, to confer honours, to appoint, accredit, receive and to recognize ambassadors and other diplomatic and consular officers, to summons and prorogue Parliament, to pardon or reprieve offenders, to enter into and ratify treaties, etc., to proclaim and terminate martial law, to declare war



and peace, to make appointments under powers conferred upon him by any law, and "to exercise such powers and perform such functions as may be conferred or assigned to him under this Act or any other law." In addition, the prerogative powers possessed by the Queen are to be enjoyed by the President. The Seal of the Republic (replacing the Royal Great Seal, the Governor-General's Great Seal and the Royal Signet) is now placed in the keeping of the President where, subsequent to the Royal Executive Functions and Seals Act, 1934, the previous seals had been in the keeping of the Prime Minister.

These powers of the President must, however, be read subject to section 7 (5) and, more particularly, section 16. Section 7 reads:

The constitutional conventions which existed immediately prior to the commencement of this Act shall not be affected by the provisions of this Act.

This section does not, of course, enact the existing constitutional conventions; what it does is to make clear that they have not been swept away by the advent of a new constitution. The alternative to such a clause would have been to attempt the hazardous and complicated task of transforming rules of convention into rules of law. Section 16, however, does give legal expression to the central convention of the cabinet system. This section states, in sub-section (1), that the executive government is vested in "the State President, acting on the advice of the Executive Council," and in sub-section (2), that any reference to the President "shall be deemed to be a reference to the State President acting on the advice of the Executive Council." In sub-section (3) specific

exceptions to this rule are stated, with regard to which, therefore, the president acts in his personal discretion. These excepted spheres of action are: the appointment of ¹ Ministers, ² the summonsing and proroguing of Parliament, ³ the dissolution of the Senate ⁴ and the dissolution of the House of Assembly.

One remaining power of the President is worth noticing, principally in order to avoid misunderstanding. This is his power with regard to legislation. When Bills are presented to the President he "shall", under section 64, "according to his discretion, but subject to the provisions of this Act" either assent to them or withhold his assent; or he may return the Bill to the House of origin with any amendments that he may recommend. This section, however, does not give the President an effective power of veto, nor does it create in him a rival to the Cabinet in the advice to be given to Parliament. The phrase "subject to the provisions of this Act" makes it clear that the preceding phrase does not enlarge the area of the President's personal discretion; it merely states that the executive's function is a discretionary one. Since section 16 does not list section 64 among the exceptions the general requirement that the President must act on the advice of the Executive Council must be considered as governing

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1. Section 20.
 2. Section 25.
 3. Section 33(1)(a).
 4. Section 47.

the exercise of his functions with respect to Bills. The Prime Minister certainly made the intention of the Government clear when he said, "The sending back of legislation...only takes place in terms of the existing practice, as well as in terms of the Constitution, which means that it will take place on the advice of the Cabinet." He went on to add that "to formulate it too narrowly would result in the President being practically nothing more than a glorified clerk in terms of the law."¹

b. The Cabinet. In terms of what we have already said it is apparent that the distinction between President and Cabinet in general corresponds to the distinction between the "dignified" and the "effective" heads of the executive. The large array of powers formally assigned to the President, therefore, represents the powers effectively enjoyed by the Cabinet. In practice, however, the most important powers of the Cabinet derive from the general powers of the President,² and of Parliament,³ respectively. In other words, the very wide powers enjoyed by the executive in South Africa are predominantly the product of legislation. When we turn from the formal exercise of power to the informal, the source of the Cabinet's power is found in the operation of institutions, notably the party system, and in the operative forces at work in the South African society, that lie outside a study of the constitutional framework itself. The point has to be

1. House of Assembly Debates, Vol. 106, col. 344.

2. Sec. 7(3)(f).

3. See 50(1)

made, however, within this context in order to emphasize the fact that the central position occupied by the Cabinet in the South African political system is only partly to be explained in terms of the Constitution itself.

The Constitution is even more unhelpful as a guide to the working of the Cabinet system. There is no word in it, for example, of the very corner-stone of that system -- the Prime Minister. For all the Constitution says, the President himself simply appoints Ministers at his own discretion and retains them at his own discretion; whereas in practice, of course, he appoints, promotes, retains, dismisses, all on the advice of the Prime Minister. Indeed, this silence not only does less than justice to the power and influence of the Prime Minister, it also undervalues the role of the President. The two really effective powers enjoyed by the President are, firstly, the decision to grant or to reject a request for a dissolution, which is provided for in the Constitution, and, secondly, the appointment of Prime Minister, which is not. In the exercise of this latter function, as Dr. Verwoerd pointed out, "there is no Cabinet on whose advice he can make an appointment."¹ But, as Dr. Verwoerd went on to say, in practice the discretion of the President is normally limited: "He must bear in mind the composition of Parliament and which person will enjoy the confidence and support of sufficient

1. House of Assembly Debates, vol. 106, col. 344.

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Members of Parliament to be able to form a Government."

Under normal circumstances the party system combines with the electoral system to enable the electorate to present, as it were, their choice to the President. The first Prime Minister of the Union, General Louis Botha, was appointed, of necessity, before the first general election was held. In that appointment the Governor-General had perhaps the widest possible discretion; but even then it was reasonably certain that the choice would have to be between Merriman and Botha -- no very wide choice, after all. From the time of the first general election on, however, the results have virtually determined the Governor-General's choice. It is true that there have been a number of elections out of which no single party has emerged with a majority, but on each of these occasions party arrangements successfully presented to the Governor-General one candidate, and one candidate only, who would be able to form a government with
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the support of the House.

In the history of the South African Parliament only two Prime Ministers have died in office and on only four occasions have Prime Ministers resigned from office. The first Prime Minister to die in office was General Louis Botha, in 1919; and on that occasion there was little question but that his successor would be General Smuts, the Deputy Prime Minister

1. Ibid.

2. These were the elections of 1920, 1924, 1933 and 1948.

and giant of the contemporary political scene. Perhaps the most critical decision taken by a South African Governor-General was Sir Patrick Duncan's refusal to grant General Hertzog's request for a dissolution consequent to the defeat of his "neutrality" motion by the House of Assembly in 1939. On Hertzog's resignation, made necessary by that refusal, the Governor-General, however, had no effective alternative but to call on Smuts, whose coalition government was then sustained by a majority in Parliament. When Dr. Malan resigned from office in 1954, on the other hand, no candidate stood out as an obvious choice; but the National Party caucus stepped in and elected Mr. Strijdom as his successor to the leadership of the Party, whereupon the Governor-General called upon him to form a government. The same procedure, with some elaboration, was followed by the National Party when Strijdom died in 1958; after two ballots Dr. Verwoerd was elected by the required absolute majority, and was thereupon appointed Prime Minister. On no occasion, therefore, at least after the first appointment of Botha, has there been any suggestion of personal predilection or effective personal discretion on the part of the Governor-General in the appointment -- or, for that matter, in the retention -- of a Prime Minister.

The silence of the Constitution, however, goes beyond its failure to mention the office of Prime Minister; it also makes no mention of the need for a Cabinet to be supported in the House of Assembly (though not in the Senate) by a majority, or motions of confidence or no-confidence or of

censure, of the requirement that a Government must either resign or dissolve Parliament if defeated in the House in a manner that explicitly or implicitly demonstrates a withdrawal of confidence. There is no mention, indeed, of the whole doctrine of Cabinet responsibility to Parliament, although it is stated that the Ministers have the function of administering "such departments of State of the Republic as the State President may establish."¹ The Cabinet functions, therefore, largely on the basis of convention rather than of law.²

There have been occasional crises within the Cabinet, chiefly affecting the doctrine of Cabinet solidarity. Perhaps the most outstanding was the first. This was occasioned by a series of speeches made by General Herzog in 1912 which aroused increasing indignation among the English-speaking section of the Union including other members of the Cabinet. Herzog, however, went on, undeterred and unrepentant, to deliver his famous De Wildt speech, the general drift of which, like that of his preceding speeches, was to emphasize the Afrikaner element in South African nationalism. While to the South African today, there is little in reports of these speeches that does not seem commonplace, they were

1. Sec. 20.

2. The most singular contravention of the related doctrines of collective responsibility and Cabinet solidarity occurred in 1936 when J.H. Hofmeyr spoke and voted against the Representation of Natives Bill and yet remained a member of the Cabinet.

regarded at the time as conflicting with the Botha policy of "conciliation". Sir George Leuchars, a Natal representative in the Cabinet, tendered his resignation in protest against them. Botha thereupon asked Hertzog for his resignation, but Hertzog refused. There was no alternative then but for Botha himself to resign. When he was re-appointed Prime Minister he formed a new Cabinet without either Leuchars or Hertzog. Cabinet solidarity was re-established; but the cost was high, for it led to the formation by Hertzog of the National Party and the long history of cleavage of South African polities along linguistic, or, to use the terminology of the day, along "racial" lines. History repeated itself rather oddly, although without the same critical consequences, when Hertzog resigned in 1928 in order to be rid of a troublesome Labour Minister.

In one respect, however, the new Constitution did bring provisions relating to the Cabinet into line with convention. Under the South Africa Act the Executive Council, strictly speaking, consisted of all past and present Ministers,¹ although only present Ministers attended. The new Constitution, on the other hand, defined the Executive Council as consisting of "the Ministers appointed under section twenty² for the time being holding office."

1. Ellison Kahn, op.cit., p. 22 n.

2. Sec. 17

The Constitution further requires that Ministers and Deputy Ministers should be members either of the House of Assembly or of the Senate, or should become members within three months of appointment.¹ Appointment of Senators as Ministers is facilitated by the provision (found originally in the South Africa Act) that Ministers may attend and speak in either House, although they may vote only in the House of which they are members.² Usually Senators who are appointed as Ministers are elected Senators, but there have been times when a Prime Minister has used the power of nominating Senators in order to appoint as Ministers the men of his choice.³

There are few conventions in South Africa governing the composition of the Cabinet. Indeed, the only one of any significance is that each of the four provinces (but not South West Africa) should be represented in it. In every Cabinet from 1910 to 1948 both language groups were always represented, but it is doubtful whether this practice can be regarded as a convention. The South African and the United Party ministries always included English-speaking members as well as Afrikaans-speaking, but this arrangement was necessitated by the attempt made by each of these parties

1. Sec. 20(3).

2. Sec. 54(4).

3. These were: O. Pirow in 1929, A.J.P. Fourie in 1938, and J. De Klerk in 1954. The second of these appointments occasioned a Cabinet crisis. See below, p. C.40.

to appeal to, and thus to reconcile, both major language groups. The Herzog ministries from 1924-1933 again included English-speaking Ministers, but these were the Labour members of the coalition between the National and Labour Parties. It was not until 1948 that a party or group of parties achieved power on the basis of the support of only one section; and the National-Afrikaner Party coalition under Dr. Malan for the first time since Union contained no English-speaking member. That position continued until 1961 when two English-speaking members, Messrs. Waring and Trollip, both former members of the United Party, were appointed to the Cabinet in order to give it a broader "national" appearance.

The danger of confusing a general practice with a convention is apparent in connection with the Prime Minister himself. The first three Prime Ministers of the Union had been Boer Generals and the following three Prime Ministers (i.e. up to and including Dr. Verwoerd) have also been Afrikaners. This is not a matter of convention, but the result, at first, of the strength of personal loyalty created during the Boer War, and later on increasingly, of the political dominance of the Afrikaner section. Only the small parties -- the Unionist, Labour, Dominion, Federal and Liberal Parties, have had English-speaking leaders. The "purified" Nationalists, the Afrikaner Party, the National Union Party and the Progressive Party, all had, or in the case of the last-named have, Afrikaner leaders. It is, indeed, almost as difficult to conceive of an English-speaking

Prime Minister for South Africa as it is to conceive of an African Prime Minister -- perhaps more difficult.

(ii) Parliament.

(a) The Senate. The South African Parliament, following the British model, is defined as "the State President, a ¹ Senate, and a House of Assembly". The Senate, however, is not a distinguished element in the triune legislature, nor can it said to be a noteworthy example of a second chamber. Nevertheless, it has been involved in more heated political controversies than could have been expected by those who framed its composition, functions and powers. These events, however, produced legislative retaliation that progressively robbed the Senate of an effective rôle in South African Government.

The Senate as created by the Act of Union was to be composed on the basis of six principles: the equality of Provincial representation in the Senate; the indirect election of Senators; the use of the single transferable vote in the election of Senators; the power of the Governor-General to nominate a number of Senators; the use of the Senate for the protection of minority or under-represented groups; and a term of office longer than that of the House of Assembly. In terms of these principles each of the four Provinces returned eight elected Senators; these were elected by

1. Sec. 24(1).

provincial electoral colleges consisting of the members of the provincial council and the members of the House of Assembly elected by the Province concerned; in addition, eight Senators were to be nominated by the Governor-General-in-Council, two from each Province, half of whom were to be appointed "mainly on the ground of their thorough acquaintance, by reason of ¹their official experience, or otherwise, with the reasonable wants and wishes of the coloured races in South Africa." The use of the Senate as a means of broadening the base of representation was tenuous at the beginning. It was found in the use of proportional representation in the election of Senators and in the criteria just stated for the appointment of half of the Senators. The principle was vitiated in the first element, however, by restricting the electoral college to members who had been themselves elected on the "first past the post" system; so that while it made probable the election of one or more Senators from a party other than the majority party, it would still have to be a substantial party, and in practice few Senators have been elected from outside the two major parties of the day. If a system of proportional representation had been combined with direct election a much broader representation of opinion in the electorate would have been secured; but it was feared that a Senate elected by direct popular vote would constitute a rival to the House of Assembly.

1. South Africa Act, sec. 24.

The principle of using the Senate for a broader basis of representation was also vitiated in that those Senators whose special function was to represent the "reasonable wants and wishes of the coloured races" were nominated, not elected. Nevertheless, while the principle is to be discerned in posse rather than in esse, the notion of the special function of the Senate deriving from it has not been without significance in its subsequent history and it is not impossible that it may acquire greater significance in the future.

Changes in the composition of the Senate have generally followed upon, or been determined by, political controversy. The South Africa Act laid down that no change could be effected within the first ten years of Union¹ but that after that time Parliament could provide for a different manner of constituting the Senate. Parliament first exercised its power in 1926. The "Pact" Government² which came into power in 1924 faced a hostile majority in the Senate which used its power to impede Government legislation³ to the extent that on three occasions⁴ the "deadlock" machinery of a joint session had to be brought into use. The response of the

1. Sec. 24, 25.

2. I.e. a coalition of the National and Labour Parties.

3. In each case this was done not by rejecting Bills but by introducing amendments unacceptable to the Government.

4. The Bills concerned were the Mines and Works Act Amendment Bill (known as the Colour Bar Bill), 1925-6, the Precious Stones Bill, 1927, and the Iron and Steel Industry Bill, 1927.

Government to this situation was to bring in the Senate Act of 1926, which virtually ended the possibility of effective Senate resistance to House of Assembly Bills. The South Africa Act had provided for a term of office of ten years for nominated and elected Senators alike, but this term could be shortened for elected Senators by a simultaneous dissolution of both Houses. Nominated Senators, however, remained in office in spite of dissolution.¹ The Senate Act, 1926, provided that the Senate could be separately dissolved within 120 days of any dissolution of the House of Assembly and that nominated Senators would at the same time vacate their seats. Nominated Senators were further required to vacate their seats upon a change of government even without a dissolution of the Senate. The effect of these provisions, then, was virtually to ensure that the Government would have the backing of a majority in the Senate as well as in the House and that the former would become in essentials a replica of the latter.

The next major change in the composition of the Senate occurred in 1936. The Representation of Natives Act, which was passed by following the procedures laid down in the entrenched clauses, removed the "Native" or African voters of the Cape from the common roll (thus destroying one of the essential agreements of Union) and provided instead for

1. Sec. 20.

the separate election in the Cape of three representatives in the House of Assembly and the indirect election by the Natives of the Union of four Senators: one from Natal, one from the Transvaal and O.F.S. together, one from the Transkei, and one from the Cape Province.

The South West Africa Amendment Act of 1949 while serving, intentionally or unintentionally, to increase the Government's precarious majority in the House of Assembly by six further supporters, also added four more members to the Senate to represent that territory: two elected in the same way as in the Provinces, and two nominated, with the provision again that one of these should have a thorough acquaintance with the wants and wishes of the coloured races.

Before the drastic change in the composition of the Senate took place as a result of the Senate Act of 1955, the Senate's composition might be reflected in either of two ways:

(a) Nominated	10
Elected by each Province	32
Elected by S.W.A.	2
Elected by Natives	4
	<u>48</u>

or (b) White representation (including nominated Senators)	39
Non-White representation (including nominated Senators).	9
	<u>48</u>

The degree of representation of the non-Whites as shown in (b) above, however, overstates the case. For one thing the Natives could elect only White Senators, and while they

thus were able to secure the election of such doughty champions as Senators Ballinger, Rheinallt Jones, and Brookes, this requirement undoubtedly diluted the representative principle. Moreover the use made of the nominating procedure has sometimes reduced the condition attached to such nominations to a patent farce. On at least two occasions it was used as a back-door entry into the Cabinet. In the Pact Government Hertzog nominated Oswald Pirow as a Senator "thoroughly acquainted" with the wants and desires of the Coloured races in order to have him in the Cabinet, and justified the nomination on the ground that Pirow had that acquaintance "possessed by every enlightened son of South Africa who takes an intelligent interest in the people of South Africa and their welfare."¹

In 1936 Hertzog did it again. Mr. A.J.P. Fourie was defeated in the general election, and Hertzog had difficulty in finding a member willing to give up his seat. In the end he gave up the attempt, and, rejecting a late offer, nominated Fourie as a Senator "thoroughly acquainted" with Coloured interests. On this occasion, however, Hertzog's action provoked a Cabinet crisis, and both Hofmeyr and Sturrock resigned in protest. Hofmeyr, in a memorable speech, stated, "I consider it as nothing less than a prostitution of the constitution that that provision should be used to assist the Government out of a temporary political

1. Alan Paton, Hofmeyr (London, 1964), p. 286.

difficulty", and he went on to argue that it was an issue that touched the whole question of relations between white and black in South Africa. "Are we," he asked, "going to allow the non-Europeans to be made pawns in the white man's political game?"¹ All too often, unfortunately, South African Governments have either amended the Constitution or stretched interpretation of its provisions to the limit in order to achieve an immediate political objective -- a tendency hardly consistent with the requirements of constitutionalism.

The Senate Act of 1955 was an outstanding example of this attitude and one which shocked even some supporters of the Government. The Act itself was the penultimate stage in the constitutional drama that almost resulted in the overthrow of the entrenched clauses. Since this constitutional struggle directly concerned the validity of the entrenchments and only indirectly the composition of the Senate, its history will be related in that connection. At this point, however, it may be said that the 1955 Senate Act was confessedly designed solely for the purpose of achieving the two-thirds majority of a joint session of Parliament required in order to remove the Coloured voters of the Cape from the common roll. Nor was any justification offered of the Act

1. Alan Paton, loc. cit.

other than that it was necessary in order to achieve that
¹
end.

The Act provided the following composition for the Senate: 16 nominated for the Union and two for S.W.A., again "theoretically" with the requirement of thorough knowledge of the wants of the coloured races, two elected as before for S.W.A., four indirectly elected by Africans, and the remaining 65 elected by the Provinces on a complicated basis that gave the Transvaal 27 Senators, the Cape 22, and Natal and the O.F.S. 8 each. The principle of equality of provincial representation was thus abandoned, as was the system of proportional representation. The Senators elected for a particular province all came from that party having a majority, however slight, in the electoral college of the province concerned. As a result, all but 12 of the total of 89 members of the new Senate were Government supporters.³⁴

Moreover the remote possibility of Senatorial rejection of Government legislation was rendered even more remote by two further provisions. The one further reduced the possibility of a hostile majority by empowering the Governor-

1. "It is created for a special purpose - to provide the Government with a two-thirds majority. If the aim had been a better Senate, the Government would have come forward with a different plan." Die Burger, 28 May, 1955. Quoted by H.J. May, op. cit., p. 73.
2. The word is Leo Marquard's. See his Peoples and Policies of South Africa (London, 1960), p. 84.
3. See above, p. C 36.
4. Compared with 18 out of 48 in the old.

General to dissolve the Senate within 120 days of the expiry
of the term of office of a provincial council.¹ Secondly,
the Senate veto now disappeared entirely. Bills dealing
with taxation or appropriation may be assented to by the
Governor-General and pass into law even if rejected by the
Senate; and other Bills may be so assented to if passed by
the House of Assembly in two successive sessions in different
calendar years. The joint session therefore was abandoned
except for the purpose of amendment to the entrenched
clauses.

The enlarged Senate provided the Government with its
two-thirds majority in a joint session and thus enabled it
in 1956 to revalidate the Separate Representation of Voters
Act, No. 46 of 1951. As partial compensation for the removal
of Coloured Voters from the Common Roll, an additional
Senator was to be nominated to represent the interests of
the Coloureds of the Cape.

Two years later the Promotion of Bantu Self-Government
Act of 1959 abolished African representation in Parliament.
With effect from June 30, 1960, the Africans of the Union,
therefore, lost their three representatives in the House of
Assembly and their four indirectly elected Senators.

1. The implications are clear: the pro-Government vote in
an electoral college might theoretically be transformed
from a minority of one to a majority of one by a
provincial election. As a result where before no
pro-Government Senators would have secured election,
now the Government would win a clean slate.

The Senate Act of 1960 provided for the Senate that in substance was to be included in the Republic of South Africa Constitution Act. As finally constituted, the Senate has the following composition: eight nominated Senators, two per province; a number of elected senators per province equal to one-tenth of the size of the province's electoral college, provided that no province shall have less than eight senators; two elected and two nominated Senators for South West Africa; and one nominated Senator to represent
1
the Coloured people of the Cape.

The criteria for the nomination of Senators are much more fully elaborated than in the South Africa Act.² There is, firstly, the general requirement that the President "have regard to the desirability of ensuring that the Senate will as far as practicable consist of persons having knowledge of matters affecting the various interests of the inhabitants of the Republic". Then, secondly, there is the requirement that at least one of the nominated Senators per province "shall be thoroughly acquainted, by reason of official experience or otherwise, with the interests of the coloured population in the province...and...should be capable inter alia of serving as the channel through which the interests of the said coloured population in that province may be promoted."

1. Sec. 28.

2. Sec. 29.

The system applying to elected senators while it does not restore the principle of equality of provincial representation is far more favourable to the small provinces than the 1955 Act. As at present constituted, the Transvaal has fourteen elected senators, the Cape eleven, and Natal and the O.F.S. eight each. Moreover, the system of proportional representation is restored, so that there is at least a measure of minority opinion represented in the Senate.

Nevertheless, it is unlikely that the Senate will ever, at least under the present Constitution, become an effective second chamber in the sense of developing an independent opinion of which the Government is forced to take account. The history of nominated senators does not inspire confidence in the device whatever the prescribed criteria for nomination may be: they are, and are likely to remain, Government men. It is difficult, moreover, to imagine a conjunction of circumstances that would produce a different party majority in the Senate from that in the House of Assembly, since the 1955 provisions relating to the dissolution of the Senate are retained in the present Constitution, as are the provisions relating to disagreements between the two chambers.

The only real significance attaching still to the Senate is its role in amending the two remaining entrenched clauses. But in this sphere the lesson of 1955 would appear

to be that in the admittedly unlikely event that the Government sought to amend or repeal the provision relating to the equal status of the two official languages, and was baulked by a failure to obtain the necessary two-thirds majority, the Senate would provide the key to open the door to the Government's will. In short, instead of proving a means of protecting the interests of minorities, the Senate has been turned into an instrument with which to attack them.

(b) The House of Assembly. The composition of the House of Assembly is examined in the report dealing with the franchise and the electoral system.¹ Their general effect and the effect of the party system and of demographic factors on the composition of the House is also presented separately.¹ In brief this can be summed up as follows: the resurgence of Afrikaner nationalism consequent to the collapse of Fusion and the Second World War, provided the National Party with a solid basis of support; since the Afrikaans section is in a majority in the white population, the National Party is virtually ensured a Parliamentary majority; this majority is made even more certain because of the clustering of opposition support in a relatively small number of urban constituencies. Moreover, there is increasing evidence that the severance of the ties with the Commonwealth, the mounting

1. These materials will be presented for study group F. See under pagination F 201 et seq.

hostility of world opinion, and the aversion of white South Africans to developments elsewhere in Africa, are combining to undermine the remaining white opposition to the Government.

Under these circumstances, the Government not only enjoys the certain support of the House of Assembly, but the almost certain support of the majority of the electorate. In consequence, the operation of the Parliamentary system is profoundly affected. Since the opposition has little prospect of converting a majority of the electorate to its point of view, it has equally little hope of controlling the Government. Equally, the Government has little to fear from it. The forms of Parliamentary procedure are, on the whole, observed: Bills are fully debated at all stages, Question Time occupies an honoured place in the calendar and more or less fulfils its function. But in the end the powers of the Government are practically unlimited. This is particularly apparent in the wide range of discretionary powers that Parliament has, from time to time, conferred on the Government.

It is in the light of these developments that many observers have come to regard the absence in the Constitution¹ of elements of balance and restraint as evidence either of

1. E.g., the use of such devices as federalism, a more balanced and powerful second chamber, a Bill of Rights.

a foolish optimism or of an unscrupulous, sinister purpose. Without committing ourselves to such judgements, we may justly comment that had our hindsight been added to the foresight of those gathered at the National Convention, the constitution would almost certainly have been given a different shape.

With regard to Parliament, apart from questions of composition,¹ it is hardly likely that so sweeping a grant of power would have been made as that which today stands in the Republic of South Africa Constitution Act, 1961:

59(1) Parliament shall be the sovereign legislative authority in and over the Republic, and shall have full power to make laws for the peace, order and good government of the Republic.

(2) No court of law shall be competent to enquire into or to pronounce upon the validity of any Act of Parliament other than an Act which repeals or amends or purports to repeal or amend the provisions of section one hundred and eight or one hundred and eighteen.

(iii) The Provincial System of Government

As we have pointed out elsewhere, a federal type of constitution was rejected perhaps too readily by the National Convention, partly because of the objections (many of which were ill-founded) of Smuts and partly because Natal,

1. It is tempting to speculate on the probable effects that would have followed had Smuts persisted with his proposal for proportional representation.

the only colony that strongly favoured it, lacked bargaining power.

Some concession in the direction of federalism was, however, made and incorporated in the South Africa Act and later retained in the Republic of South Africa Constitution Act. The provincial organs of government are thus prescribed in, and their powers are defined by, the Constitution. On the other hand, and the point is decisive, the sections establishing the provincial system were not among the entrenched clauses of the South Africa Act, nor are they in the Constitution Act. The whole provincial system could, therefore, in the extreme case, be abolished by Act of Parliament passed in the normal bicameral fashion.

1

That, at least, is the generally accepted view,¹ and that view was maintained despite Section 1 of the South Africa Act Amendment Act, No. 45 of 1934. That Act, introduced in order to quieten fears, particularly in Natal, that the Union Parliament was about to substitute a centralised system for the provincial syste, declared:

Parliament shall not...abolish any provincial council or abridge the powers conferred on provincial councils under section eighty-five, except by petition to Parliament by the provincial council concerned.

1. Cf. H.J. May: "It [the South African Parliament] may alter or abolish the provincial councils." op.cit., p.23.

Since, however, the Act was passed in the normal manner in a sphere in which Parliament was acknowledged to be competent, the doctrine that no Parliament can bind its successor applies. Although the issue has not claimed the attention of constitutional lawyers,¹ it might be argued that the inclusion of this provision as section 114 of the Constitution Act creates a new situation. The Prime Minister defended the view that the Union Parliament could repeal, and at the same time re-instate in the Constitution Act, the entrenched clauses of the South Africa Act by using the normal legislative procedures, in these words.

I must emphasize that the entrenchment was written into the South Africa Act by an ordinary majority of the British Parliament, which was the creator of the South Africa Act. In the same way it is possible for this Parliament, which is the creator of the succeeding Parliament to bind that Parliament by an entrenchment like this.²

What the Prime Minister there said with respect to the entrenched clauses could be applied mutatis mutandis to Section 114. In other words, if the Constitution Act binds all subsequent Parliaments created by that Act, then the prohibition contained in that section is a sure protection to the provincial system. On the other hand, Section 118 empowers Parliament to "repeal or alter any of the provisions of this

1. Or not, at least, to my knowledge.

2. Quoted by Ellison Kahn, op. cit., p. 31. The analogy seems to me, however, to be imperfect, for, at least until 1931, the United Kingdom Parliament remained competent to amend or repeal the South Africa Act in whole or in part.

Act", with the exception of the entrenched sections for the repeal or amendment of which special procedures are prescribed. Moreover, as we have seen, by Section 59 (2), the Courts are precluded from enquiring into or pronouncing upon the validity of any Act of Parliament other than an Act that purports to amend or repeal the entrenched clauses. In the light of these provisions, then, it would appear that Parliament could amend or repeal Section 114 and abolish the provincial councils or abridge their powers without observing the condition contained in Section 114. On this view of the law, the provincial councils and their powers remain as dependent on the will of Parliament under the Constitution Act as they did under the South Africa Act and its amendments.

(a) The Administrators. In each province the chief executive officer is the Administrator. He is appointed by the President (i.e., by the Cabinet) but he enjoys a degree of independence that distinguishes him from an ordinary servant or agent of the Government. He may not, for example, be removed from office before the expiry of his five-year term of office, without the reason for his dismissal being communicated by the President to Parliament;¹ and the Administrator's salary is fixed by Parliament, not by the Government,² and may not be reduced during his term of office. The Constitution Act further provides that "as far as practi-

1. Sec. 66(3). This message is not, however, subject to the passing of an affirmative resolution.

2. Sec. 67.

cable" the President shall give preference in the appointment of an Administrator to a person resident in the Province to which he is appointed.¹ In a sense, therefore, the Administrator is a representative of the central government, and in a different sense he may be said to be the representative of the Province in which he serves.

H.J. May in his study, The South African Constitution, distinguishes four, or perhaps more accurately five, functions which the Administrator has to perform. The first is his function as representative of the Province. This is implicit in the fact that he is the chief executive officer in the Province, and is also implied by the residential requirement just stated. But the function is made explicit in the many ceremonies at which he is expected to preside. "His duties in this respect," writes May, "are manifold and apparently necessary."² As we shall see, however, the Administrator is the effective head of the executive government, not merely the ceremonial or formal head, and the manner in which he may be said to represent the Province raises practical difficulties. He is appointed by the Government, in part at least, to act on behalf of the Province, but he is not elected by the Province nor is his tenure of office dependent on majority support in the Provincial Council. Moreover,

1. Sec. 66(2).

2. Op. cit., p. 362.

the intrusion of party into the system of representation raises further problems of party allegiance. J.H. Hofmeyr, for example, who had been appointed Administrator by the South African Party Government in 1924, found himself later in the year confronted not only by the Nationalist-Labour "Pact" Government under Hertzog, but also by a hostile majority in his own Provincial Council. It is interesting that the pressures for his removal came from the Council rather than the Government. The Council, indeed, went so far, in 1925, as to pass a motion of no-confidence in him and to request his resignation. The Government, however, or more precisely,
¹ Hertzog, supported Hofmeyr, and the storm blew over. The Administrator of the O.F.S. was caught in a similar position in 1948, and this, again, gave rise to considerable friction.

The post-1948 period in Natal throws further interesting light on the position of the Administrator. The Nationalist Government inherited the recently appointed Denis Shepstone as the Smuts-appointed Administrator. To his credit, however, Dr. Malan renewed Mr. Shepstone's appointment in 1953, a highly popular move in Natal that, at the minimum, avoided further exacerbation of a public opinion that was thoroughly aroused over the Government's tug-of-war with the Courts over the entrenched clauses. In 1958, however, the Government

1. Hertzog said, inter alia, "According to our constitution ...there is no necessary connection between the party political views of the administrator and that of the government of the day, however desirable this may sometimes be for practical purposes." Quoted by May, op. cit., p. 367.

went outside Natal, and appointed a former prominent United Party politician from the Transvaal, Mr. Trollip. While the majority in Natal would have preferred a Natal resident, it was mollified by the fact that the appointment was not blatantly a party political one. In the end, however, the post proved a stepping-stone in Mr. Trollip's career, for in 1961 he was appointed to the Cabinet. His place was taken by Mr. Gerdener, at that time the leading member of the Natal Nationalist M.P.'s.¹ The Government thus moved back to giving emphasis to the residential criterion, but at the same time gave predominantly English-speaking Natal its first Afrikaans-speaking Administrator, and a prominent Nationalist politician at that.

The Administrator, however, is no mere figurehead. He is Chairman of the Provincial Executive Committee, where he has both a deliberative and a casting vote. But he is, when meeting with the Executive Committee, no more than the Chairman, for it is laid down in the Constitution Act that decisions of the Executive Committee shall be by majority vote,² and he is bound to act on such decisions.³ Any

1. During his term of office, it must be said, Mr. Gerdener has co-operated successfully with his United Party-dominated Provincial Council and Executive Committee. He is currently being widely tipped for a Cabinet post in 1966.
2. Sec. 81(1).
3. H.J. May, op. cit., p. 369.

personal ascendancy that an Administrator might enjoy over his Executive Committee would be dependent on such factors as his personal prestige and, more important, the balance of party power in the Committee.¹ Except in the Transvaal, there is, however, one constant factor which gives the Administrator some advantage over his executive colleagues: he is the only full-time member, and he therefore has a more continuous and detailed knowledge of the provincial administration than they are likely to have.

Thirdly, the Administrator is closely involved with the Provincial Council. He summons and prorogues the Council; he sets the dates for elections to it; he alone can introduce taxation or appropriation proposals; he promulgates provincial ordinances and regulations. While he may (and does) both attend and speak at meetings of the Council, he does not, however, have a vote. He cannot be both Administrator and a member of the Council. His role vis-à-vis the Council is aptly summed up by H.J. May: "He is the council's guide and its watchdog, and, though not its master, he is also not its servant."²

Fourthly, the Administrator has a general function of acting on behalf of the central government in matters not

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1. Since, by section 77, the Executive Committee is elected by proportional representation a fairly even balance between the parties is not improbable.
 2. Op. cit., p. 363.

assigned to the Provincial Council:

In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the State President when required to do so, and in such matters the administrator may act without reference ¹ to the other members of the executive committee.

It is important to note the condition attached to this function; but at the same time it does place the Administrator in a somewhat ambivalent position, and it cannot always be easy to determine whether he is functioning as an officer of the central government or as head of the provincial executive government.

On the other hand, the fifth function of the Administrator arises out of this duality. This is his function as a liaison officer between central and provincial administrations, and it is here, that in May's view, he does "most useful work".² Given the particular mixture of unitary and federal features that is found in the South African Constitution, it is clearly desirable, from the point of view of making the Constitution work smoothly, that there be a degree of harmony between the two administrations. As a means to this end the

1. Sec. 83.

2. Loc. cit.

Administrator is extremely useful, for, as long as he maintains the measure of independence clearly intended in the constitution, he is well placed to mediate the interests and opinions of each administration to the other. Beyond that too, the practice that has developed since 1935, of holding Administrators' Conferences twice yearly provides a means of co-ordination and integration among the provinces inter se.

(b) The Executive Committee. If the Administrator's role is one that fails to fit neatly into any of the institutions of the British parliamentary system, this, too, is true of the Executive Committee. The significant point about the Provincial Executive Committee is not that it has many points of similarity with a cabinet, but that there are so many points of dissimilarity. It represents, as May points out, "neither a parliamentary executive nor a non-parliamentary executive. It is...a mixture of both," he continues, "and cannot easily be classified in the scheme of constitutional institutions."¹

The Executive Committee is generally a committee of the Council in the sense that its members usually are members of the Council; but they need not be.² To it, too, is given the task of carrying on the administration of the province "on behalf of the provincial council",³ and, to that end,

1. Op. cit., p. 369.

2. Sec. 76(1).

3. Sec. 79(1).

it has general power of appointment to, and control over,
¹
the provincial service.

On the other hand, the four members are elected by the
²
system of the single transferable vote, and therefore
are frequently representatives of more than one party.
Indeed, May records the instance of the Executive Committee
which was elected in the Transvaal in 1917, when every member
came from a different party. It had been hoped that
provincial government would be conducted on non-party lines.
The first provincial elections showed how naive that hope
had been. The result, however, is that the Provincial
Executive may (i.e., in particular, when more than one
party is represented in it), speak with more than one voice.
The related doctrines of cabinet solidarity and collective
responsibility do not, therefore, apply. Indeed, the
Executive Committee is virtually immune from Council attacks,
for its continuance in office is not dependent on the
continued support of a majority. Even the Council's power
of the purse is a frail instrument, for if the Council refuses
to vote supply the central government may come to the rescue,
as it did of the Transvaal Executive Committee in 1914.
³

1. Subject, however, to the Public Service Act, No. 54 of 1957.
2. Sec. 77(1).
3. See May, op. cit., p. 369. Indeed, the real holder of provincial purse strings is the central government rather than the provincial council.

Elections to the Executive Committee take place at the first meeting of the Provincial Council after a general provincial election; their terms of office, therefore, are ¹coterminous. Casual vacancies are filled by election by the Council, or, if the Council is not in session, by the ²executive pending election by the Council. While, with the exception of the Transvaal (where M.E.C.'s receive a correspondingly higher salary), members of the Executive Committee are not full-time officers, they are generally in charge of specific departments, and assume quasi-Ministerial responsibility for them, for example in the introduction of legislation pertaining to their departments, in answering questions, and in making statements of policy; and long service in charge of a particular department is able to breed considerable experience and knowledge in its affairs. This gives the Executive Committee a counter-balancing advantage over the Administrator, particularly while the latter is still new to his office.

On the whole the Executive Committee system has worked not unsatisfactorily, and while proposals are from time to time made for its transformation into a cabinet system, there is little popular pressure for such a change. Moreover, it is not, perhaps, inappropriate in a divided society to provide for institutional access to the executive for the

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1. Sec. 76(1).
 2. Sec. 76(5).

minority. Far more open to criticism is the potentiality (so far not wholly realised) that the Administrator be regarded primarily as the agent of the central government of the day.

(c) The Provincial Council. In each province a provincial council is elected on the same franchise as is used for parliamentary elections.¹ Each council consists of as many members as that province elects to parliament, provided that no provincial council shall consist of less than twenty-five members.² For the Cape and Transvaal there are at present 52 and 68 M.P.s respectively; and their provincial councils, therefore, comprise the same number of members, elected from the same constituencies. The parliamentary representation of Natal and the O.F.S., however, at present stands at 16 and 14 members respectively. The Delimitation Commission is required, then, at the same time that it fixes the boundaries of parliamentary constituencies, to delimit in Natal and the O.F.S. the provincial constituencies. In these two provinces, therefore, it has a double function to perform. In the Cape, the Representation of Natives Act, 1936, provided for two white M.P.C.s to be elected separately by Africans in the Cape. This representation was abolished in 1960. Meanwhile the Separate Representation of Voters Act, 1951, as validated in 1956,

1. Sec. 69(1).

2. Sec. 68(1).

established separate rolls for Coloureds in the Cape for the election of two White M.P.C.s. In 1946 similar provision was made for the separate election by Indians of two M.P.C.s in Natal (who could be Indians), but the law was not put into effect before its repeal in 1948.

Provincial councils have a life of five years and may not be dissolved before the expiry of their term of office;¹ and, like Parliament, no more than twelve months may elapse² between sessions. These sessions are usually short, lasting only a few weeks, although they may be prolonged, or special sessions called. Consequently the allowances paid to Provincial Councillors (at a rate determined by the President-in-Council³) are not substantial.⁴ A Provincial Councillor enjoys complete freedom of speech, and is not liable to "any civil or criminal proceedings, arrest, imprisonment or damages by reason of any matter or thing which he may have brought by petition, draft ordinance, resolution, motion or otherwise, or have said before the provincial council, or by reason of his vote in such council."⁵

H.J. May distinguishes four principles relating to the legislative capacity of provincial councils. These are:

1. Sec. 71(1).
2. Sec. 72(1).
3. Sec. 74.
4. In 1963, however, they were raised considerably, from R240 to R2,000 p.a. J.J.N. Cloete, Sentrale, Proviniale en Munisipale Instellings van Suid-Afrika (Pretoria, 1964), p. 156n.

(i) "The powers of the provincial councils are positive,
¹
defined, precise and limited." These powers, whether they are stated expressly in the Constitution, or conferred by statute, or delegated by the President-in-Council under the authority of a statute, all ultimately flow from the Constitution
²
itself. The Constitution Act deals with the general legislative powers of the provincial councils in two sections.

Section 85 states:

Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

And Section 90(1) provides:

An ordinance assented to by the State President and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the province.

In short, the validity of provincial ordinances depends on the demonstration that the council has been given the power to legislate on the matter concerned, and, further, that it is not repugnant to any Act of Parliament, whether the Act concerned was passed before or after the relevant ordinance.

(ii) "Within the limits of jurisdiction, the powers of the provincial councils are as plenary, as absolute, and as discretionary as those of the Union Parliament and include all
³
the powers reasonably ancillary to those expressly conferred."

1. Op. cit., p. 374.

2. See Middelburg Municipality v. Gertzen, (1914), AD 541.

3. H.J. May, op. cit., p. 376.

Hahlo and Kahn sum up this principle in succinct form: "Within the limits imposed, a council can legislate as freely and effectively as Parliament." The specific implications are:

In the result provincial ordinances escape the tests of certainty and reasonableness imposed on legislative bodies exercising delegated legislative authority. Thus, for instance, a council may legislate partially, or retrospectively; invade rights without compensation; or delegate its authority.²

(iii) "The powers of the provincial councils are not immutably fixed, but may at any time be repealed or amended by
³...Parliament." As May goes on to say, Parliament's "authority over the whole domain of legislation remains
⁴unimpaired." As we have seen, it seems unlikely that section 114 imposes an effective restraint on Parliament with respect to the amendment or repeal of the powers conferred on the provinces by section 84. And we have also pointed out already that if Parliament passes an Act that is repugnant to provincial legislation, that legislation is, at least to the extent
⁵of repugnancy, ⁶repealed.

(iv) "The provincial councils are not delegates or agents of the Union Parliament but they are original legislative
bodies." This point is at least partly covered in the first

1. South Africa: The Development of its Laws and Constitution (London, 1960), p. 181.
2. Ibid.
3. H.J. May, op. cit., p. 379
4. Ibid.

principle stated above: the authority of provincial councils is an original one conferred by the South Africa Act, and subsequently by the Republic of South Africa Constitution Act. The emphasis accorded to this point by its separate statement is further expressed by Innes, CJ, in Gertzen's case: "a provincial council is a deliberative legislative body, and...its ordinances duly passed and assented to must be classed under the category of statutes, and not of mere by-laws or regulations."¹

The specific powers conferred by the Constitution Act are enumerated in section 84.² Stated briefly, these are: direct taxation within the province; borrowing on the credit of the province, but subject to the consent of the President and in accordance with regulations framed by Parliament; education, other than higher education and Bantu education, "until Parliament otherwise provides"; agriculture; hospitals and charitable institutions; municipal and other local institutions; local works and undertakings; roads and bridges; markets and pounds; fish and game preservation; and the imposition of punishments and fines for the enforcement of its ordinances. It is noteworthy, however, that with respect to

Continued from p. C63

5. Cf. Hahlo and Kahn, op. cit., p. 182, and H.J. May, op. cit., p. 396n.

6. H.J. May, op. cit., p. 379.

1. Quoted by May, loc. cit.

2. These are substantially the same as those found in section 85 of the South Africa Act, as amended.

four of these powers, their exercise is made subject to regulations or conditions laid down by Parliament or to a specific Act of Parliament, and that with respect to a fifth, education, it is placed in the hands of the provinces only "until Parliament otherwise provides". In fact, however, all such conditions and provisos are probably redundant. Parliament has certainly subtracted from these powers subsidiary classes of matters normally falling within them or has laid down conditions for their exercise. The taxing and borrowing powers of the provinces, in particular, have been substantially curtailed, and consequently the provinces have become increasingly dependent upon the Treasury for ¹ their revenue.

Education is another field in which the subject matter of provincial responsibility has been progressively restricted. On the one hand, this has been done by the assumption by the Union Government of particular types of education, such as technical, vocational, agricultural, industrial and "special"; on the other hand, Parliament has also directly removed certain types of education formerly controlled by the provinces and placed them in the hands of the central Government, notably Bantu, Coloured, and Indian education. The educational responsibilities of the provinces, therefore, are virtually confined to elementary and secondary education (mainly of the academic type) for White children.

1. More than half their revenues are from this source.
Hahlo and Kahn, op. cit., p. 179.

Section 84 also confers legislative powers on the provinces in two general areas: with regard to matters "which in the opinion of the State President are of a merely local or private nature in the province",¹ and "all other subjects in respect of which Parliament may by law delegate the power of making ordinances to the provincial council."² The latter general power has been little used by Parliament, and the discretionary power of the Cabinet contained in the former was limited by the Financial Relations Consolidation and Amendment Act, 1945, so that it is now Parliament itself that prescribes the subject matters that are "purely local or private" while the President-in-Council now decides only when such matters are to be entrusted to provincial councils. As might be expected, the matters that have fallen to the councils under this head have been of very minor importance.

One other provincial power is worth mentioning. This is the right to recommend to Parliament "the passing of any law relating to any matter in respect of which such council is not competent to make ordinances."³ Recommendations that have been made under this head (or, more strictly, in accordance with its predecessor, section 87 of the South Africa Act) have not proved successful. In October, 1960, the Natal Provincial

1. Sec. 84(1).

2. Sec. 84(m).

3. Sec. 86.

Council passed a resolution urging that the new Republican Constitution include inter alia a bill of rights; the entrenchment of provincial powers, including the guaranteed control of education, local government, the provincial administration and a proposed provincial police force; and improved fiscal autonomy for the provinces.¹ Referring to the Natal resolution in January, 1961, in the debate on the Constitution Bill, Dr. Verwoerd rejected this proposal. "We as a Parliament," he said, "have repeatedly decided that the sovereignty of Parliament must not be impugned....I must also add that this would bring about all the evils of a rigid system."² The example Dr. Verwoerd chose in order to illustrate the "evils of a rigid system" provides in itself an interesting comment on South African politics: "If people through Parliament cannot change laws by ordinary means then the people will change them by revolutionary means. It will not allow an entrenchment to stand in its way."³

The way in which Dr. Verwoerd discussed the Natal resolution was itself an indication that more was involved simply than the degree of provincial autonomy. That certainly was at issue, and in the eyes of Natal it has always been an important issue, both intrinsically, but, even more vitally, as a means to preserving a way of life which it considers

1. Thomas Karis, "South Africa", in Gwendolen M. Carter (ed.), Five African States (Ithaca, 1963), p. 582.
2. House of Assembly Debates, vol. 106, col. 337.
3. Ibid.

threatened by the increasing dominance of Afrikaner nationalism. This sentiment was expressed in forthright terms later in the debate on the Constitution Bill by Mr. Douglas Mitchell, Leader of the United Party in Natal:

We do not accept the republic in Natal, we reject it and will have no part in it. We reject this legislation. We are not willing to participate in bringing it into being as we do not propose to live permanently under it. From now on we consider ourselves ruled by force without our consent. We live under a hostile Government. This is tyranny and rule by force. We may be forced and coerced to comply with this law which the Government makes but we will seek the first opportunity to make our own laws.¹

Fifty years of Union, of living under a unitary system with the avowed ideal of a united nation, strengthened by the threatening hostility of the outside world, have proved stronger in their influence than the resentment that smouldered in Natal from 1951 to 1961. At all events, the Natal Provincial Council has not been able to deflect from the Province the all-embracing purposes of the Government of the Republic.

Indeed, the whole structure of provincial government was designed to serve the end of integration rather than to preserve differentiation. It was certainly not conceived as an instrument of resistance to the central government. This point is amply illustrated by the requirement for Presidential

1. Debates, vol. 106, col. 453.

1

assent to provincial legislation: a "proposed ordinance",
when passed by a provincial council, must be submitted to the

2

President for his assent; the President may, within one
month, assent to it, withhold his consent, or reserve the
proposed ordinance; if he reserves the proposed ordinance,

3

he may assent to it within a year, otherwise it lapses.
Not only, therefore, is provincial legislation subject to
the limitation of powers by their definition in the Constitu-
tion, and subject to the repugnancy test with respect to
Parliamentary legislation, it is, in effect, subject to the
will and purposes of the Cabinet without any reference to
Parliament. And this power in the Cabinet to veto "proposed
ordinances" is absolute. Hahlo and Kahn write:

At times claims are made that this power should
only be exercised if the ordinance is believed to be
invalid. There is no such restriction, however, either
by convention or usage, for in a union the central
Government must be able to check a line of policy of
a subordinate legislature contrary to its own; and
judicial dicta recognise this right.⁴

1. The term, "proposed ordinance," is equivalent, in Parli-
amentary terminology, to a Bill. The central government
is thus an integral part of the provincial legislative
system.
2. In terms of section 16(2), this means the President-in-
Executive Council.
3. Sec. 89. This section, except for the substitution of
the State President for the Governor-General-in-Council,
is identical with section 90 of the South Africa Act.
4. Op. cit., p. 182. If, for example, the Natal Provincial
Council had acted on the author's suggestion made at
the so-called "Natal Convention" in 1961 that the
municipal franchise be extended to Non-Whites, the
Cabinet would almost certainly have vetoed such legis-
lation on the ground that it was contrary to government
policy.

Moreover, as we have seen, the provinces are dependent financially on the government; so that the government has a powerful instrument of control through its effective power of the purse.

Nevertheless, in spite of its weaknesses, the provincial system has continued to serve a function in South African politics and administration. In Natal, at any rate, the control over education in white schools has probably at least impeded the extension to Natal of the ideas and institutions of Christian National Education. On the other hand, should the central government take this control over from the provinces, the raison d'être of the provincial system will be seriously, perhaps fatally, weakened.

(iv) The Administration of Justice.

The judicial authority of the Republic is vested as it was in the Union, in a Supreme Court. As Hahlo and Kahn point out, however, the National Convention "failed to create a true Union court, merely linking the old colonial courts loosely together."¹ The Supreme Court consists of the Appellate Division and six provincial divisions: the Cape with nine judges, the Transvaal with eighteen, Natal with ten, the Orange Free State with six, the Eastern Cape with five, and South West Africa with two. In addition, the Griqualand West Local Division, with two

1. Ibid., p. 249.

judges, enjoys, in many respects, the status of a provincial division. There are further Local Divisions in Natal (Durban and Coast), and the Transvaal (Witwatersrand). The number and composition of the provincial divisions are not prescribed by the Constitution which merely refers to "such ¹ provincial and local divisions as maybe prescribed by law".

The Constitution Act is brief to the point of terseness on the Supreme Court. It is, in fact, contained in one section with only three single-sentence subsections. The South Africa Act, on the other hand, contained twenty-two sections under the head of "The Supreme Court of South Africa". In fact the Supreme Court has its constitution and jurisdiction defined less by the Constitution than by the Supreme Court Act, 1959. The first draft of the Constitution was wholly silent on the judiciary, and its inclusion was due to Cabinet insistence.²

Nevertheless, the Supreme Court is, as the Cabinet recognized, an essential element in the Constitution. It may be dependent on the will of Parliament, but it is not dependent on the will of the executive, and it has a long record of judicial independence. Since the abolition of appeals to the Privy Council in 1950, the Appellate Division has been

1. Sec. 94(1).

2. Ellison Kahn, op. cit., p. 32.

the final court of appeal for South Africa and South West Africa. In 1955 the number of judges in the Appellate Division was increased to eleven, with a quorum of eleven for cases involving the validity of an Act, and of five for all other appeals. In 1959 the quorum for criminal appeals was reduced to three. The Appellate Division Quorum Act, 1955, which made these prescriptions was, in the time of heated controversy in which it was passed, regarded by the opposition with considerable suspicion and described as an attempt to pack the Courts. The reaction of members of the Cabinet to the Appellate Division's judgement in Harris v. Donges, 1952, gave some point to the outcry; for then the opposition was accused of dragging politics into the Courts and was warned that packing was made inevitable if the Courts were given testing rights.¹

The problem arises from the mode of appointment of judges. Appointment, according section 10(1)(a) of the Supreme Court Act, is vested in the Governor-General (now President), which, in effect, means the Cabinet. And the only criterion laid down in that Act is that the appointee be a "fit and

1. The validity of the Senate Act, 1955, and the South Africa Act Amendment Act, 1956, was accepted by the enlarged Court in 1956 by a majority of ten to one; a possible accusation of a "packed" judgement was therefore avoided.

proper person",¹ and, of course, the Cabinet is the sole judge of that. On the other hand, their salaries are fixed by Parliament and may not be reduced during their continuance in office.² A compulsory retirement age of seventy was laid down in 1912; but a judge or acting judge may only be removed from office on an address being adopted by both Houses of Parliament in the same session on the ground of misbehaviour or incapacity.

The administration of justice at the subordinate as well as at the superior level is a function of the central government. Magistrates and the police force are, therefore, servants of the state, and the structure of administration is highly centralised. In the Constitution Act a new section (i.e., one unknown to the South Africa Act) makes at least that much plain. Section 95 reads: "All administrative powers, functions and duties affecting the administration of justice shall be under the control of the Minister of Justice."

(v) National Flag and Anthem.

The official symbols of the Republic, the National Flag and the National Anthem, are the subject of Part II of the Constitution Act. In section 4 it is stated that there shall be a National Flag as described in section 5. The latter section then describes in detail the National Flag as adopted in the Flags Act, 1927, viz. a flag consisting

1. Hahlo and Kahn, op. cit., p. 264.

2. This restriction, however, is not a binding one, in that any Parliament may at any time abolish, or even ignore, it.

of three horizontal stripes of equal width of orange at the top, white in the middle and blue at the bottom. In the centre of the white horizontal stripe the former flag of the Orange Free State hangs vertically; to the left of this is the Union Jack spread horizontally; and to the right ¹ the Vierkleur of the old South African Republic also hanging horizontally.

Section 6 simply states that, "the National Anthem of ² the Republic shall be 'Die Stem van Suid-Afrika'." In terms of the Constitution, then, only the Afrikaans version itself is the official National Anthem, although there is an officially approved English version. ³ The Anthem has, indeed, been the subject of far less public controversy than has the Flag. This may be because the initial adoption of "Die Stem" as the National Anthem took place in 1938 under the Fusion Government when the opposition was not only numerically weak but was also divided between the extreme, "Purified" Nationalists and, at the opposite end of the scale, the Dominion Party representing the "loyal" English-speaking South Africans. Moreover, it was at the same time laid down that ⁴ "God Save the King" should be played whenever "Die Stem"

1. Literally: "Four colours".

2. Trans. "The Voice of South Africa".

3. The Afrikaans version is taught in all (i.e. including English-medium) schools and the English translation remains virtually unknown.

4. General Hertzog explained that "Die Stem" was actually the only Anthem, while "God Save the King" was a prayer. Cf. D.F. Malan, Afrikaner Volkseenheid

was played and, vice versa, and that neither should be played when it was inappropriate to play the other. This compromise took the steam out of the controversy (although at one stage Mr. Stuttaford, Minister of the Interior, tendered his resignation, which he later withdrew) and accustomed the younger generation of South Africans to regard "Die Stem" as the official Anthem of their country.

The Flag controversy certainly makes that of the Anthem seem pale by comparison. The proposal to adopt a national flag for the Union was first introduced during the "Pact" Government by Dr. Malan, then Minister of the Interior, in 1925. In the end, it was not until Union Day, May 31, 1928, that the new national flag was raised. During the interval the bitterness of the conflict had reached a pitch that led many to fear the ¹imminence of civil war. At the close of his life, Dr. Malan himself referred to the struggle as "so serious that it has ²probably not been equalled in our political history." For our purposes it is sufficient to emphasize the deep cleavage between the Afrikaner and English nationalists that the passionate nature of the debate revealed. On the one hand there were those, like Dr. Malan, who adamantly maintained

1. Cf. F.S. Crafford, Jan Smuts (London, 1946), p. 243; Oswald Pirow, James Barry Munnik Hertzog (Cape Town, n.d.), p. 122; G. Heaton Nicholls, South Africa In My Time (London, 1961), pp. 178-182.

2. D.F. Malan, op. cit., p. 102. Translated.

that "honour and duty" alike demanded the recognition of South African nationhood by the adoption of a national flag; ¹ on the other hand, there were those who insisted on continued recognition, in some form or another, of the Union Jack. And in between these warring factions were many, including most of the non-Natal members of the United Party, who, while approving a national flag in principle, were more interested in effecting some kind of compromise. One such person, also, was Tielman Roos, Minister of Justice and Leader of the National Party in the Transvaal. In the end, he played an important rôle by going direct to the Governor-General and persuading him to bring Hertzog (the Prime Minister) and Smuts together -- thus earning Malan's unforgiving enmity. Perhaps his chief complaint against Tielman Roos was that for ² him politics was "a game". Politics was never "a game" for Malan; on the contrary, it was deadly serious, pregnant with principle and national honour; and he steadfastly followed his own course, regardless of what divisions, upheaval, bitterness and other consequences ensued. In the end, however, he accepted the Hertzog-Smuts agreement, which formed the substance of the Flags Act, 1927.

In brief, the Act provided for a National Flag and also for the continued, although restricted, use of the Union

1. Ibid.

2. Ibid., pp. 112-113.

Jack as the symbol of the Union's free association with the British Commonwealth. The Union Jack, however, could be flown only with the Union Flag, and would be flown only at Parliament Buildings, in the capitals of the Union and of the Provinces, and in such other places as the Government might determine.

Before the adoption of a republic took place, the path was eased by a number of measures. In 1957 a new Flag Act was passed that provided for only one national flag and ended the official flying of the Union Jack. In the same year, "Die Stem" became the sole National Anthem, and the practice of playing "The Queen" terminated. The initials, OHMS, disappeared from official envelopes in 1958. In 1960 the Queen's head disappeared from postage stamps, and in the same year it was announced that it would not appear on the new decimal coins. These events aroused no great public controversy, perhaps because of the emotional exhaustion following the constitutional crisis of 1951-1956. At all events, symbols of South Africa's link with the Queen and the Commonwealth were virtually all abolished before the Republic was established.

Still, the National Flag of the Republic at least contained the Union Jack as part of its design, for the present. Speaking on the subject of the flag in the Constitution Bill debate, the Prime Minister said: "The decision was to let the development towards unity go on undisturbed at this stage at least by renewed strife about

what is only a symbol."¹ The question is liable to be reopened, then, in the future; but it hardly seems likely that, if it is, the tumult and the shouting of 1926-27 will be heard once more.

(vi) The Official Languages.

There were two, and probably only two, issues before the National Convention on which a failure to agree would have almost certainly have involved total failure. These issues were the question of the non-white franchise and the status to be accorded to the Dutch (or Netherlands) language. The agreements that were finally reached on these issues formed the substance of the only two matters that were entrenched in the South Africa Act, thereby demonstrating their centrality to the Union compact.

It is sufficient in the present context to say of the question of the non-white franchise that the Cape delegation would have accepted no less than section 35 provided and that the Transvaal and O.F.S. delegations would have accepted no more. On the language issue the initial attitudes were less extreme in that the O.F.S. delegation (and, in particular, Hertzog and Steyn) never contemplated the exclusion of English and the other delegations, even Natal, were all prepared to concede some form of recognition to Dutch. Nevertheless, Hertzog and Steyn were both adamant in the demand

1. Debates, vol. 106, col. 330. My emphasis.

for equality that they did make. Somewhat to their surprise, however, the door opened almost before they pushed and agreement was reached with relative speed and ease. This agreement was embodied in section 137 of the South Africa Act, which reads as follows:

137. Both the English and Dutch languages shall be the official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Amendment of this section (as well as section 35) was made subject to the special procedures prescribed in section 152, which reads in part:

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided...that no repeal or alteration of the provisions contained in this section...or in section 35 and 137, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint meeting shall be taken to have been duly passed by both Houses of Parliament.

That Dutch was made the second official language at the time of Union, was the result not of any animus against Afrikaans but of the lack of recognition accorded to that language. Dutch was the language that was taught in the schools, used in the Churches, and for official

purposes in the colonies before Union. Indeed, the Afrikaans language had to battle for recognition among the Afrikaners, or "Dutch", as much as among the English. A Nationalist Member of Parliament, speaking in 1955, recalled those early struggles:

Who does not remember the struggle which ensued, how it could be possible to preach from the pulpit in Afrikaans! That was lowering religion! For a long time thereafter we preached in Afrikaans when it was still impossible to say a prayer in Afrikaans. It was regarded as a sacrilege to address the Almighty in a language which one supposed he did not understand.¹

Indeed, it was only in 1933 that the Bible was translated into Afrikaans, and it was eleven years later before the Dutch hymn-book was replaced by one in Afrikaans. Nevertheless, the acceptance of Afrikaans as the normal language of conversation had long preceded these marks of linguistic respectability.

In this respect, the first amendment (if, strictly speaking it was that) to section 137 was of greater significance to the development of the Afrikaans language than it was to the Union's constitutional development. It was modest in its object. Using the procedure laid down in

1. Mr. H. C. de Kock, House of Assembly Debates, 22 March, 1955, vol. 88, col. 3073.

section 152 (perhaps unnecessarily), the Official Languages of the Union Act was passed by Parliament in 1925. It provided, in section 1 that "the word Dutch in section 137 of the South Africa Act, 1909, and wheresoever else that word occurs in the said Act, is hereby declared to include Afrikaans." The Act further provided that Afrikaans, not Dutch, should be the language used for legislation and official documents in the future.

The passing of the official Languages Act had been preceded by the appointment of a Joint Select Committee of both Houses which had reported inter alia:

Your Committee has no doubt as to the necessity of proceeding forthwith to substitute Afrikaans for Nederlands in Bills and Acts of Parliament as well as in official documents of both Houses. Competent evidence has convinced your Committee that such a step is required in the public interest and for the efficient working of the legislature itself; that in the transition no serious practical difficulties will have to be surmounted which have not already been successfully overcome in other services of the State...; that such difficulties as may occur will not be lessened but rather aggravated by delay; and that there is no foundation for the objection which has been made that Afrikaans as a written language lacks finity of form and standard.¹

The ensuing period was predominantly occupied in applying in detail -- at the local, provincial, and above all at the administrative levels -- the principles established by the South Africa Act and the Official Languages Act. With

1. Quoted by Mr. Haak, House of Assembly Debates, vol. 88, col. 3057.

General Hertzog as Prime Minister from 1924 to 1939, success, especially in the departments falling under the central government, was almost inevitable; but it was just as complete, too, in all provinces except Natal. The position of Afrikaans in national and public life in South Africa thus came to be assured in practice as well as in principle. With the advent to power of the Nationalist Government in 1948, with, for the first time since Union, an exclusively Afrikaans-speaking Cabinet, it was not so much the struggling, "new" language of Afrikaans whose continued future seemed to be in jeopardy, as the formerly dominant English language itself.

The sense of insecurity was due partly to the alleged promotion practices of the Nationalist regime in the public service, police force and armed services, partly to rather aggressive statements made by Cabinet ministers and other leading Nationalists from time to time, and partly to the undermining of the strength of the constitutional bastion of language equality, section 137, by the attack made by the Nationalist Government on the binding force of the entrenched clauses during the crisis of 1951-1956. Although that crisis specifically concerned the rights of Coloured voters, the Opposition was quick to point out that if the entrenched clauses failed to give special protection to those rights, then they failed, too, to give special protection to the English language. In the end, as we have seen, the Courts reiterated the binding force of the

entrenched clauses, but, in allowing the validity of the Senate Act of 1955, they opened the door to their evasion by a government sufficiently determined to manipulate the composition of the Senate in order to transfer only a slender majority into the required two-thirds majority. This, obviously, could happen again with respect to section 137.

It was while these issues were still being contended that the language question was again raised. The South Africa Act Amendment Bill came before Parliament in February, 1955, to be passed into law as Act No. 9 of 1955. The effect of this statute was to add section 137 bis to the South Africa Act. This read as follows:

All records, journals and proceedings of a provincial council shall be kept in both the official languages, and all draft ordinances, ordinances and notices of public importance or interest issued by a provincial administration, and all notices regulations or by-laws made by any institution or body contemplated in paragraph (vi) of section eighty-five shall be in both official languages.

This Act was passed by both Houses sitting separately by simple majorities. The procedure was queried by the Opposition, although the object of the Act was not opposed. In raising the point on behalf of the Opposition, Mr. H.G. Lawrence referred to the case of Rex v. Schaper, 1945, where the Appellate Division held that section 137 did not make it obligatory for local authorities to promulgate by-laws in both languages. By making it obligatory, Parliament was, Mr. Lawrence argued, altering the law, and the Act might be

invalidated on the ground that the procedures contained in section 152 had not been followed. To this argument, one of the Government spokesmen replied by referring to Swart and others v. de Kock and Garner, 1951, in which Centlivres, CJ, had said inter alia:

All that the court held in Schaper's case is that in the absence of any relevant legislation the municipality was entitled under Section 137 of the South Africa Act to promulgate its by-laws in only one of the official languages, and I cannot imagine any court holding that the Cape, Transvaal or Orange Free State ordinances offend against the words 'shall possess and enjoy equal freedoms, rights and privileges' on the ground that the municipalities of those Provinces are deprived of the right to use one of the ¹ official languages to the exclusion of the other.

The Speaker ruled that the Bill was not "an alteration of the provisions of Section 137 coming under the special procedure described in Section 152 of the South Africa ² Act."

The Bill itself was occasioned by the alleged neglect of the Natal Provincial Council to ensure that all notices of general or public nature promulgated by local authorities were published in Afrikaans as well as in English. More deeply, it represented the Government's determination to ensure that Afrikaans received its due in all public spheres. This sentiment is clearly seen in the statement

1. Debates, vol. 87, col. 997.

2. Ibid., col. 998.

made by Capt. G.H.F. Strydom: "We as Afrikaans-speaking people have not yet been given our due and it will take many years before we are given our dues as Afrikaans-speaking people." He went on to say: "We are living in a bilingual country and if the Government wishes to remain in power it has to see to it that bilingualism is enforced."¹

The Minister of the Interior, Dr. Donges had earlier indicated that the Government had needed no pressure to move it in this direction:

What I think [he said] is possibly the most important reason for introducing this Bill, is that it must be looked upon not only as a symbol but as a proof positive of the Government's earnest endeavour to make the equality of the two official languages in South Africa not just a matter of words and laws, but a reality.²

Fundamentally, however, the Government was less concerned with bilingualism per se than with the desire to give the Afrikaner element of the electorate "proof positive" that it was doing all in its power to forward the cause of the Afrikaans language.³

Shortly after the adoption of that Act a private member's motion was introduced by Mr. Haak of the National Party that was warmly welcomed by the Government, and, indeed, by the Opposition, which had implications for the application of section 137. The motion read:

¹Ibid., col. 1013.

²Ibid., col. 1001.

³During the 1958 general election campaign the National Party addressed its appeal almost exclusively to the Afrikaner voter, so much so that it was referred to as "the call of the tribal drum".

That in the opinion of this House it is desirable
that -

- (a) all the High Dutch Union Statutes should be translated into Afrikaans;
 - (b) such Afrikaans translation shall be proclaimed by His Excellency the Governor-General to replace the existing High Dutch text; and
 - (c) after such proclamation the Afrikaans translation of all statutes signed by the Governor-General in High Dutch shall be deemed to be the text signed by the Governor-General,
- and accordingly requests the Government to consider the advisability of taking the necessary steps to give effect thereto.¹

This motion was approved nem. con. and subsequently put into effect. Its significance lay in the fact that it amounted to a de facto amendment to section 137 as amended in 1925, for the result was that Afrikaans instead of being included in Dutch as an official language virtually replaced it. By 1955, of course, Dutch was no longer in use in South Africa, and it was therefore anomalous that many of its statutes remained in that language,² but, more than that, in order to amend Acts originally published in Dutch, Dutch Acts continued to be passed annually in the South African Parliament: in 1953, nine out of 49 Acts; in 1954, 14 out of 57, and during the 1955 session eight of the 45 Bills introduced, were in Dutch.³

Clearly the reform sought by way of the motion was both necessary and desirable. For one thing, very few members of the House still understood Dutch, and, indeed, few outside it. Consequently, and this was the rub, Afrikaners

¹

Debates, vol. 88, cols. 3053-4.

²According to Mr. Haak these amounted to about 300 out of the approximately 1000 laws in force. Ibid., col. 3059.

³Figures provided by Mr. Haak, ibid., col. 3058.

in order to understand Dutch laws turned to the English version.

The community [said Mr. Haak] in practically all its spheres, as regards the Afrikaans-speaking person, is still controlled by a language which the people concerned cannot speak and which does not mean anything to them. The result is that the English text is used and quoted. That has the result that Afrikaans is not given its due in all respects...¹

Mr. Haak's conclusion was: "I think that it is essential that the State should see to it that Afrikaans is given its due."² The same underlying motive for the introduction of the South Africa Act Amendment Act, No. 9 of 1955,³ a few weeks earlier was clearly also operative in the introduction of the motion.

The Republic of South Africa Constitution Act, 1961, apart from one addition and one slight change, embodied the language provisions of the South Africa Act as amended. The change was that in section 108 it is now simply declared that "English and Afrikaans shall be the official languages of the Republic..." But in effect the Republic still retains the three official languages established in 1925, for section 119, dealing with definitions, states that "Afrikaans" includes "Dutch". Section 108 of the Constitution Act goes on to repeat verbatim the provisions of section 137 of the South Africa Act, and section 137 bis of the latter Act now appears as section 109. The new provision with regard to the official languages is found in section 110, dealing with the method of publication. This reads:

¹ Ibid., cols. 3059-60

² Ibid., col. 3061.

³ See above p.

Whenever anything is published in a newspaper at the instance of the State or by or under the directions of any body referred to in paragraph (f) of subsection (1) of section eighty-four or of the administration of a province, the publication shall take place simultaneously in both official languages and in the case of each language in a newspaper circulating in the area of jurisdiction of the authority concerned which appears mainly in that language, and the publication in each language shall as far as practicable occupy the same amount of space: Provided that where in the area in question any newspaper appears substantially in both of the official languages, publication in both languages may take place in that newspaper.

The entrenchment of section 108 is provided by the procedures prescribed in section 118, which repeats in substance the provisions of section 152 of the South Africa Act. This element of entrenchment together with the limited testing right conferred on the Courts, might occasion some surprise in view of the vigorous opinions expressed by the Nationalist Government during the "constitutional crisis" concerning the absolute necessity of preserving the "sovereignty of Parliament" and thus the supremacy of the volkswie. In the end, however, one is forced to ask what the entrenchment amounts to. The Prime Minister himself, in introducing the Constitution Bill, said (in a different context): "If people through Parliament cannot change laws by ordinary means then the people will change them by revolutionary means. It will not allow an entrenchment to stand in its way."¹ The Senate Act of 1955 demonstrated one method whereby "the people" could obtain its way despite the obstacle of entrenchment.

¹ Debates, vol. 106, col. 337

By 1956, indeed, the whole question of entrenchment seemed of little importance to the Nationalists, not only in the general sense for the reason just noted, but also, specifically, with regard to the official languages. In that year, a prominent Nationalist, Dr. Coertze, had this to say:

Will English continue to exist in this country because it is safeguarded? ... It has not been our experience that Afrikaans continued to exist because it was safeguarded... Section 137 is not the Magna Charta of Afrikaans, but only the recognition of the right of one group to be different from the other group. That is what it is. We already recognize the right of the English-speaking people to be different. It is not necessary for us to embody it in an Act.¹

This is a far cry from the views of General Hertzog and President Steyn. To English ears this dismissal of the value of entrenchment sounded both glib and suspicious, especially in view of a reported speech by the Minister of Posts and Telegraphs in February, 1955:

The Minister said, amidst repeated applause, that he was repeating what the Prime Minister had said, viz. that there will never be racial peace between Afrikaner and Englishman until everybody stands united under one flag and one language.²

At the moment the trend of events both inside and outside South Africa provides a positive inducement to the Government to seek the widest co-operation from English-speaking as well as Afrikaans-speaking White South Africans, and this is the present effective safeguard of the equal status of the English language, not section 108. On the

¹ Debates, vol. 90, col. 206.

² Quoted by Dr. Steenkamp (U.P.), Debates, vol. 96, col. 165.

other hand, the attachment of the Afrikaner to his own language and his awareness that it is the language of only a small proportion of the total population of the Republic, provides him with additional reason for seeking to restrict the enjoyment of political power to the White population, in which the Afrikaners form the majority. Would Afrikaans, under a Black government, still be an official language, accorded equality of status both in word and in deed?

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SOUTH AFRICA:

LANGUAGE EQUALITY IN GOVERNMENTAL INSTITUTIONS

BY

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Language Equality in Governmental Institutions

Introduction

It is one thing to insert in a constitution a provision guaranteeing "equal rights and privileges" to two official languages, and even to "entrench" such a provision by special amending procedures; it is another thing to procure continuing implementation of this equality. At the National Convention, in supporting the motion by Sir George Farrar that eventually formed the substance of Section 137, General Hertzog felt it necessary to add that he was "prepared to trust in the future".¹ He recognised that agreement on the constitutional provision had not finally resolved the issue, that its meaning in practice would depend on the way it was interpreted and applied, and that therefore there could be no certainty, only "trust".

Similar trust was expressed by those who secured the entrenchment of the Cape's mixed racial franchise, and by the British Government on the same issue, when the draft constitution was brought to London for enactment. That trust, however, was later proved ill-founded as first the Africans and then the Coloureds were removed from the common roll. Language equality, however, has shown itself to be a more durable principle in South African politics. There have been, it is true, allegations of unfair discrimination against

1. Johan F. Preller (ed). Konvensie-Dagboek van F.S. Malan (Cape Town, 1951), p. 45.

first one language group (i.e. until 1924, in particular, against the Afrikaans-speaking section), and then against the other (particularly since 1948); but, on the whole, there has been no open and notorious violation of the principle, nor any sustained proposals for its amendment. That is not to say, however, that issues involving the official languages have not been the subject, from time to time, of bitter controversy and mutual recrimination; for, indeed, they have. Yet for the most part, these issues lie in fields that do not fall within the scope of this paper: the fields, principally, of appointments and promotions in the public service (including the state-operated railways, the armed services and the police force) and of education,¹ particularly with regard to the establishment of schools of a particular type, the recruitment and promotion of teachers, and, more especially, the question of compulsory mother-tongue instruction.

This paper's concern is with language usage in Parliament, in Parliamentary notices, records and other publications, in legislation and the promulgation of laws, regulations and proclamations, and in judicial proceedings at all levels. For the most part it will consist in the unexciting but necessary description of how the principle of language equality is applied in detail to the day-to-day conduct of public business.

1. Language requirements and practices in those fields are the subjects of separate reports.

1. Parliament

a. Formal procedures and terminology

At the outset it should be remarked, although the matter refers rather to culture than to language, that the forms of Parliamentary procedure follow closely the English model. From the ceremonial procession on the Opening of Parliament, the Address of the State President (altered in name only from the former Speech from the Throne), the Speaker's Procession, to the proceedings in Parliament, there is much that would be familiar to the observer from Westminster-- or, for that matter, from Canberra or Ottawa. In essence, the South African Parliament, at least in its formal and procedural bearings, is the British Parliament transferred to South African soil-- and that despite the fact that the greater majority of its members are, and for most of its history have been Afrikaners.

While the proceedings might be familiar in form to the Commonwealth observer, the language used would as often as not be unintelligible; for the principle of language equality is rigidly respected. The oath (or solemn affirmation) to be taken by new members is prescribed in the Constitution,¹ and, of course, is printed both in English and Afrikaans. The proceedings of Parliament are opened each day with the reading of Prayers, alternating daily between the English and Afrikaans

1. Section 52.

versions.¹ Orders of the Day, similarly, are read alternately in English and Afrikaans. If, on a division, the question was first put in Afrikaans, after the division bells have rung it is then put in English, or vice versa, as the case may be.

The English terminology used closely follows the English model. The House of Assembly is presided over by Mr. Speaker; his strong right arm is the Sergeant-at-Arms, and in the Senate the enforcement officer is the Gentleman Usher; Bills are classified as public, hybrid² or private; the House goes into Committee and is then presided over by a Chairman. Indeed the terms descriptive of legislative procedures are the familiar English ones; Appropriation is the business of the Committee of Supply, as Taxation is of the Committee of Ways and Means. The Leader of the Opposition confronts the Prime Minister and his Cabinet. So we could go on, piling detail on detail. There are some slight variations it is true, perhaps the most notable being that the Clerk of the House and the Clerk Assistant have, by the Republic of South Africa Constitution Act, been transformed into the Secretary to the House and Deputy-Secretary respectively.³ Junior Ministers have, since their inception, been Deputy Minister; so that Canadians

1. Neither is an exact literal translation of the other, but the differences in substance do not appear to be of any great significance.
2. According to S.O. 73, a hybrid bill is "a public bill which adversely affects or may adversely affect the private interest of particular persons or bodies as distinct from the private interests of all persons or bodies in the particular category to which those persons or bodies belong..."
3. Section 117

and South Africans might well misunderstand each other when using the term. In general, however, it is surprising how few changes in terminology and nomenclature have been made under the Republic.

In 1956 an earnest plea was made by a Mr. Greybe, a Nationalist from the Transvaal, for the use of more appropriate Afrikaans terms -- although he was careful to stress that he did not seek any change in the English titles. Addressing the Speaker as "Meneer die Spreker", he argued that the Speaker in Afrikaans should be called the Chairman, and, to avoid confusion, that the existing Chairman become the Deputy-Chairman, and the existing Deputy-Chairman become the Assistant Deputy-Chairman. The Sergeant-at-Arms could not, he felt, be properly translated as "'n gewapende sersant" (literally, "an armed sergeant"); he therefore proposed that reference to weapons be dropped and that he be called simply Sergeant (and in Afrikaans "Sersant"). Whips should, he further argued, be translated into Afrikaans as "party managers"; and the mace should be given the Afrikaans equivalent to sceptre ("septer") or staff ("saf"). In general he sought changes that would "comply with the language idiom used by us Afrikaans-speaking people."¹

Some concessions, but not many, have in fact been made to this sentiment. The Speaker, however, remains untranslated as

1. House of Assembly Debates. March 22, 1956, vol. 91,
cols. 3032-3034.

"die Speaker"; Whips remain Whips ("Sweeps" in Afrikaans); but the Sergeant-at-Arms has been given a wholly new Afrikaans title ("Ampswag")¹ and the same title is also given to the Gentleman Usher.

b. Proceedings in Parliament

"It is assumed that all M.P.s are bilingual, and in practice this is the case."² Consequently, proceedings in Parliament are, with few exceptions, in one language or the other, not both. Members use the language of their choice and some use a different language for different speeches. There are occasional jibes, particularly at some English-speaking United Party members, that they have to wait for the English version of Hansard to appear before they can understand what has been said in Afrikaans; but there are probably few, if any, in this category, and there are almost certainly no Afrikaans-speaking members who do not fully understand speeches made in English.

There is a rule that a private member must use only one language throughout the same speech, although Afrikaans quotations may be cited in Afrikaans. Interjections and questions may be made in either language, but commonly, although not universally, questions are in the same language as that in which

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1. Literally, "official guard".
 2. Prof. McRae's notes of an interview with Messrs. McFarlane and Victor, Secretary and Deputy-Secretary, respectively, to the House of Assembly. "Bilingual" here, it is assumed, means "able to understand both languages".

the speech is being made. Ministers may use both languages in the course of the same speech, and commonly do so, particularly on important occasions. Quite frequently a Minister switches from Afrikaans into English following an interjection made in English, continuing in that medium for some time before reverting, if at all, to Afrikaans. During Question Time, too, a Minister invariably replies in the language in which the question was asked.

In short there is an easy interchange of language medium in the House: it is something that is taken for granted and is no longer an issue. This in itself, of course, makes a thorough competence in both languages an absolute requirement for the offices of Speaker, Chairman and Deputy-Chairman, Secretary to the House and other officers of the House. It also makes it particularly desirable that at least the Prime Minister and the Leader of the Opposition should be thoroughly bilingual.¹

There has been something of a shift in language usage in the House since the Nationalist advent to power in 1948. The Editor of Hansard assesses this shift in a note which reads:

Prior to 1948, the ratio over the sessions remained more or less constant at 57 per cent English to 43 per cent Afrikaans. Since 1948, the pattern has gradually been changing and today the position is that the ratio is approximately 50 to 50.²

1. Perhaps it is no accident that these positions, at least since the merger of the Unionist Party with the South African Party, have been occupied by men of Afrikaans (or Dutch) descent.

2: Quoted by Mr. McFarlane in a letter to Prof. McRae dated July 14, 1965.

From Union until 1925, the two official languages were, as we have already seen, English and Dutch; and it was only in that year that Dutch was defined so as to include Afrikaans and that Afrikaans became an official language, although in 1914 Afrikaans had already received official recognition in all provinces except Natal. In Parliament, too, it would appear Afrikaans had been used as a spoken, although not a written, language for some time before 1925.¹ From 1925, however, Afrikaans to all intents (except existing statutes and their further amendments) replaced Dutch as the second official language. The continued use of Dutch is, however, still permitted², but its actual use is rare. Possibly the last speech to be made in the House in that language, was the speech made by Mr. de Kock in 1955 during the debate on the motion that all Dutch statutes be translated into Afrikaans. He said in part:

If I am to be the last person to speak Dutch in this House - I hope that that will not be the case - but if I am to be the last I would be proud to have paid this tribute to the Nederlands language.³

c. Parliamentary Documents

While the oral proceedings of the House normally involve the free use of either official language without translation, in general the reverse situation obtains with respect to printed

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1. Cf. Mr. Haak. Debates. March 22, 1955, vol. 88, col. 3056.
 2. Cf. Republic of South Africa Act, 1961. Section 119.
 3. Debates, ibid., col. 3073.

documents. For the most important documents, this is made mandatory by the Constitution in Section 108(2) which reads:

All records, journals and proceedings of Parliament shall be kept in both the official languages, and all Bills, Acts and notices of general public importance or interest issued by the Government of the Republic shall be in both the official languages.

Standing Orders are printed in both official languages, and in turn further amplify the bilingual requirements. According to S.O. 48(4) all Bills must be tabled in both English and Afrikaans. S.O. 219 requires that the Minutes of Proceedings (prior to 1961, the Votes and Proceedings) of the House be printed in both English and Afrikaans.

If a discrepancy between the English and Afrikaans texts of a Bill is discovered after it has passed through both Houses of Parliament but before it is presented to the President for his assent, the Speaker is required, by S.O. 83, to report the discrepancy to the House, where it will be dealt with as any other amendment. In terms of Section 65 of the Constitution Act (which takes over the substance of Section 67 of the South Africa Act), when a Bill has been assented to, the Secretary to the House is required to enrol two fair copies of the Act, one in each of the official languages, in the office of the Registrar of the Appellate Division of the Supreme Court; and in the case of conflict between the two copies, the copy signed by the President prevails. The normal custom, although it is not sanctioned by law, is for Bills to be presented to the

President for signature alternately in English and Afrikaans.¹

In general, too, all papers and documents connected with the business of Parliament are printed in both languages: Circulars, Orders of the Day, Questions, Bills, Minutes of Proceedings, Hansard, Estimates of Expenditure, Reports (whether, for example of the Controller and Auditor-General, of a Select Committee, or of a Commission), and Proclamations.² Some Reports, however, are tabled only in one language, particularly where they are both urgent and lengthy. The Report of the Commission of Inquiry into the shooting at Sharpeville was, for example, tabled in Afrikaans, while that inquiring into the disturbances at Langa at the same time, appeared only in English; and these have never been translated. Some reports, too, particularly of quasi-independent boards and commissions (e.g. the Board of Trade and Industry) are tabled first in only one language and re-tabled later in translation.

In general, however, it may be said with some confidence that unilingual Members of Parliament (or members of the public, for that matter) have no cause for complaint or for lack of knowledge-- at least as far as printed documents are

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1. I cannot discover how rigid this conventional rule is. Was it, e.g., merely a happy coincidence for the Nationalists that it was the Afrikaans copy of the Republic of South Africa Constitution Act that was signed by the Governor-General?
 2. For a description of different forms of presenting documents in both languages, see Appendix, p. 234.

concerned. Nor is there any cause for complaint of lack of access to the government in general or to Ministers in particular on the grounds of inability to communicate in both official languages. Petitions, for example, need be presented only in one of the official languages, or in some other language provided that it is accompanied by a translation into one of the official languages.¹ Questions to Ministers may, as we have seen, be put in either language, and will normally be answered in the same language. And the same rule, in general, applied to all official correspondence.²

2. The Administration of Justice

From the citizen's point of view there are three major prerequisites to a fair system of justice: he must be able to know what the law is, i.e., the limits of his rights and duties; he must be in a position to defend his rights before impartial courts; and justice must not only be done, it must also be seen to be done, i.e., court proceedings must be open to the public gaze. Language equality, of course, cannot in itself fulfil these requirements, although it is clearly involved in the first two of them. It will be convenient, then, to examine the language factor in the administration of justice under the heads of the first two requirements noted.³

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1. S.O. 35.
 2. See further Professor Cloete's report on the Public Service in South Africa.
 3. The discussion that follows is restricted to the use of the two official languages. In all court proceedings interpreters are made available for those who do not understand either of the languages, and this applies to South African Africans, Indians, etc., and to alien immigrants or aliens generally.

a. Knowledge of the Law.

The requirement that all citizens should be in a position to know (or discover) what the law is, is normally met by the act of promulgation. The effect of Sections 137 and 137 bis of the South Africa Act and of Sections 108-110 inclusive of the Constitution Act is that nobody is expected to know both official languages but everybody is presumed to know one of them.¹ All Acts, rules and regulations and other government notices are consequently published simultaneously in both official languages. This has, indeed, always been the case as far as the central government is concerned. It was a rule, however, that had not always been observed in particular by local authorities. It was this failure of local authorities to match the practice of the central government that led to the insertion of Section 137 bis into the South Africa Act by the South Africa Act Amendment Act of 1955 and that accounts for the inclusion in the Constitution Act of sections 109 and 110.

The background of events that gave rise to the 1955 amendment is not without interest. The Transvaal Provincial Council had passed an Ordinance in 1916 which provided inter alia that

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1. It is worth noting that there is no requirement for the promulgation of laws in any language other than the official languages and that neither of these may be understood by many Africans.

all municipalities, hospital boards and other public bodies must publish all notices and forms in both languages. While the Ordinance made no reference to regulations or ordinances promulgated by local public bodies it was assumed in practice to cover them, so that such regulations were in fact always promulgated in both official languages.

In the Cape, the Divisional Council Ordinance of 1917 made somewhat similar provisions; and it was followed by amending ordinances in 1921 and 1931 which finally made obligatory the promulgation in both official languages of all public notices, regulations and ordinances by all local authorities.

In the Orange Free State, the Local Authority Ordinance of 1948 provided that:

All information to be brought to the notice of the inhabitants of any municipality, as well as the regulations, documents, or notices intended for the use of the public be recorded and published in both official languages.¹

In fact, however, all regulations published by local authorities had been published in both official languages since 1910.

In predominantly English-speaking Natal, however, the position neither in law nor in practice matched that in the other provinces. In a letter from the Natal Provincial Administration sent to the Department of the Interior in 1951 for

1. Section 79.

transmission to the Department of Justice, it was said:

As regards the ordinances and regulations of local authorities the position is that all such ordinances and regulations which the Administrator has approved since October, 1944, were published in the Provincial Gazette in both official languages. This practice arose from an agreement with the Natal Municipal Association and no amendment to the Local Authorities Ordinance was deemed necessary. Thus far this custom has been maintained and it would appear that an amendment to the Ordinance is unnecessary.¹

Further correspondence, however, finally led to the passing of amending legislation by the Natal Provincial Council which provided that:

All ordinances, regulations and rules which are promulgated in terms of this Ordinance or any other law concerning local authorities within the jurisdiction of this Ordinance, and in respect of which announcements in the official gazette are required, must be published in both official languages of the Union.

The Union Government still complained, however, that it made no provision for compulsory publication in both languages of notices of a public nature or of general interest, or for the promulgation in both languages of those regulations and by-laws that had already been promulgated in only one (i.e. English). The South Africa Act Amendment Act, 1955, therefore, sought to remedy both these defects, and, as far as the latter was concerned, set a terminal date of December 31, 1955², for this

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1. Quoted by Dr. Dönges, the Minister of the Interior, in the House on February 14, 1955. Debates, vol. 89, col. 1000.
 2. Subsequently more than once extended.

translation and promulgation in both languages.

The heated exchanges in the debate on this proposed legislation between Natal's United Party spokesmen and the Government and their supporters were not so much based on the merits of the case as they were the product of the controversial manner in which in the whole subject had been raised. In 1953 a Dr. Terblanche was charged with the violation of certain traffic regulations in Durban. He protested that the relevant by-laws had been published only in English. He did not claim that he could not understand English, and, as Senior Lecturer in Afrikaans-Nederlands at the University of Natal, such a claim would have been manifestly absurd. More pertinent, perhaps, was the fact that Dr. Terblanche was also Chairman of the National Party in Durban. At all events, in 1954, the Minister of Justice issued an instruction that no prosecutions were to be instituted where the relevant by-laws were promulgated in only one language. This instruction together with the provision in the Bill that all such by-laws would in effect be rendered null and void if not promulgated in both languages by the end of 1955, amounted, as one Natal Member put it, to "the use of the big stick by the Government".¹

Whether it was "the big stick", or a case, as another member put it, of "making these matters political issues for the sake of political gain"², or whether it was legislation

1. Mr. Eaton. Debates, ibid., col. 1008.

2. Mrs. van Niekerk, ibid., col. 1018.

that really was necessary, the general result in South Africa is that all public notices, regulations, and ordinances are now published throughout in both official languages, and even the ratepayers of Durban have become accustomed to seeing (and paying for) bilingual street signs.

One further point, perhaps, might be made with reference to the language of the law, although it is essentially subsidiary. One reason put forward for the 1955 Resolution that led to the translation of existing Dutch Statutes into Afrikaans was expressed by Mr. Haak, the mover of the Resolution, in these words:

Although Dutch as a spoken language has already disappeared in South Africa, we still find that we annually pass legislation in Dutch in this Parliament... and that means that we are here passing legislation which is difficult for the outside public to follow....

The community in practically all its spheres, as regards the Afrikaans-speaking person, is still controlled in law by a language which the people concerned cannot speak and which does not mean anything to them.¹

This was a legitimate grievance, and it was right that it should be remedied. In recent years, however, a new development has arisen with the compilation of an English-Afrikaans legal dictionary with Afrikaans equivalents for Latin as well as English terms. According to a newspaper

1. Debates, vol. 88, cols. 3059-3060.

report, a court case "can now be conducted entirely in Afrikaans without even the traditional Latin phraseology." The report goes on to state that up to then many Afrikaans clients would have been unable to follow the arguments of their counsel which were frequently presented in English, interlarded no doubt with Latin terms, "for lack of an adequate Afrikaans legal vocabulary".¹ The problem, of course, goes further than that: it is the problem of the intelligibility of the language of the law to the layman even when his own language is ostensibly being used; but this is not a problem that relates to, or arises from, bilingualism.

b. Court Proceedings

In criminal cases the first requirement is that the person accused should be able to understand the charge that is preferred against him. This is covered by instructions that officials responsible for the drawing up of indictments, charge sheets, summonses, subpoenas, etc., must do so in the official language of, or that required by, the person for whom they are destined. For this purpose, the officer who investigated the case and who is presumably acquainted with the language media of the persons concerned, must be consulted. Where no particulars are available, the person's surname is used as a guide. The clerk of the court is further made responsible for the proper observance of these instructions. Gardiner and Lansdown go even

1. Cape Argus, September 20, 1963.

further. Citing the Magistrates' Courts Act of 1944 and a number of cases, they say:

An accused person is entitled to have the indictment or charge put to him in a language which he understands.... And it is the duty of the judge or presiding officer to assure himself, as far as possible, that the accused has clearly understood the charge.¹

In the conduct of the case, witnesses may give evidence in the language of their choice, and interpreters will be provided when and as necessary. There is not, nor could there reasonably be, any need for the proceedings of the court in any given case to be conducted throughout in a single language medium. There is no stipulated language qualification for lawyers, and while probably the great majority have a working knowledge of the second language, some may not have sufficient mastery of it to use it for purposes of cross-examination or even of argument. It is not infrequent therefore that the defence counsel uses one language while the witness uses another-- possibly without the intervention of an interpreter. By the same token it is possible for a defendant to be represented by counsel whose preferred language is not that of his client, who may, in consequence, not wholly follow the way in which his defence is being conducted. Public prosecutors and State Attorneys, on the other hand, are expected as public servants to be fully bilingual, although in predominantly unilingual areas this ideal may not always be matched by practice.

1. F.G. Gardiner and C.W.H. Lansdown, South African Criminal Law and Procedure (6th ed., Cape Town, 1957), p. 350.

Mr. Oberholzer, Deputy Secretary in the Ministry of Justice, has stated that there are no language tests for magistrates, and that there are a few magistrates who are not fully bilingual.¹ The latter part of the statement is undoubtedly correct, but the former part is misleading. Magistrates are public servants within the Department of Justice, and they are usually appointed to the bench on promotion from officials of the Department. In the course of their earlier career, therefore, they will have been subject to the normal public service language tests. Probably what is meant by Mr. Oberholzer is that no specific level of proficiency is required and that no specific language tests are prescribed for appointment to the bench.

There can, however, be no doubt about Mr. Oberholzer's further statement that there are no formal language qualifications for the appointment of judges. The only qualification, indeed, that is prescribed for them is that they be "fit and proper persons". Mr. Oberholzer did point out, however, that the general linguistic capabilities of potential appointees to the bench are a matter of common knowledge among the legal profession, and that these are taken into account when appointments are made. Similarly, he suggested that the representation on the Bench of the two linguistic groups, and even of certain others, such as the Jewish group, has been a fair reflection

1. In an interview with Professor McRae on May 19, 1965.

of the structure of the White population.¹ Not surprisingly, there is no formal rule governing the language of the judgment.

1. From a quick examination of the names of the members of the Supreme Court in 1963, it would appear that the Afrikaans-speaking members of the court outnumber their English-speaking counterparts by a ratio of 3:2. The distribution by language of the judges is as follows:

The Supreme Court

	Afrikaans	English	Doubtful	Total
Appellate Division				
Chief Justice	1			1
Judges of Appeal	7	3		10
Provincial and Local Divisions				
Judge President (Cape)	1			1
(Transvaal)	1			1
(Natal)		1		1
(O.F.S.)	1			1
(Eastern District)		1		1
(S.W.A.)	1			1
Puisne Judges				
(Cape)	4	1	3	8
(Eastern Districts)	1	2	1	4
(Transvaal)	11	6		17
(Natal)	2	7		9
(S.W.A.)	1			1
(O.F.S.)	4			4
Judges (Griqualand West)	2			2
Total	37	21	4	62

According to Mr. Oberholzer, "it is usual to give the judgment in the language of the argument if one language only has been used in arguing the case."¹ A different, but not conflicting, principle was enunciated by Holmes, J. in the case of Martin v. Electoral Officer, Newcastle Division, and Another, 1958:

In this case the applicant's affidavits were in English and his counsel addressed the court in English. The first respondent's affidavit was in Afrikaans and counsel for the respondents addressed the court in Afrikaans. In which language then should the Court give judgment? One's experience is that the winner is usually content to know merely that he has won. But the loser likes to know the reasons why he has lost. I proceed therefore to give judgment in the language of the loser....

If Professor Kahn is correct, either there is a very large number of cases conducted wholly in English, and/ or English-speaking parties lose their cases more often than Afrikaans-speaking parties, or, as is most probable, there is no general rule in practice: for he states that "probably only one-fifth of all reported cases are reported in Afrikaans."² He went on to suggest the following tentative breakdown by provincial divisions:

My guess would be that the proportions are: O.F.S., about half the cases; Natal, almost none; Eastern Cape, seldom a report in Afrikaans; Western Cape, perhaps one fifth; Transvaal, perhaps one fifth.

1. Professor McRae's notes.
2. I.e. in the S.A. Law Reports, which cover only the Supreme Court.
3. Interview with Professor McRae on 25 May, 1965. These proportions were suggested as very rough estimates only.

On the other hand, Professor Kahn points to the fact that one judge, F.W. Beyers (a former Nationalist Minister), gives all his judgments in Afrikaans.

If magistrates and judges need not be bilingual, nor need juries. Among the grounds laid down by the Criminal Procedure Act, 1955, on which jurors may be challenged is "that the juror is unable to read and write one or other of the official languages." In R v Hugo, 1939, application was made for a change in venue on the grounds that the accused wished his defence to be conducted in Afrikaans, that it was essential that the jury should be able to understand Afrikaans, and that this would be virtually impossible in Johannesburg. In dismissing the application, Schreiner, J., said in part:

I pointed out in the course of argument that a great number of trials in the country are of persons, viz. natives, whose language is not understood by the jurors, but we have to manage and we do manage, that the interests of justice are not sacrificed despite the unavoidable intervention of the interpreter. The function of the jury is to consider the matter of the argument, the reasons advanced and the criticisms of the witnesses. These points can ordinarily be conveyed to the jury satisfactorily through the medium of an interpreter. It may be that some of the finer shades of the argument are occasionally lost and some of the effect of the advocate's eloquence may be missed by the jurors, but these are things which are inevitable in the circumstances of our country and are not such as to require the Court to alter the venue of the case.

The topics that have been discussed represent but a part, although a central part, of public life in South Africa. It should be added, although the material is not available for a formal study, that in all significant particulars, practices in the provincial councils conform to those of Parliament.

No one has ever attempted to compute the cost of bilingualism in the public sector. If one includes education, the training of bilingual teachers, the testing and training of bilingual civil servants, the provision of translation services, the duplication of printed materials from income tax forms to Hansard, the cost must indeed be enormous. The only appropriate comment, however, would be an echo of the words of Mr. Justice Schreiner: "these are things which are inevitable in the circumstances of our country..."

AppendixNote on Documents Illustrating Translation Methods

South African policy concerning presentation of translated documents is at present very flexible, and considerable experimentation has been undertaken in order to find the most convenient forms. These experiments must be placed in the context of a steadily increasing bilingualism among the white population at large, and almost universal bilingualism among those at the national level of public life.

There are at least six major methods used for presenting official documents in both languages, and each of these is illustrated by the attached documents. These methods are:

1. The publication of two separate versions, one in English and one in Afrikaans. Examples of this form of presentation are (a) The Report of the Select Committee on Coinage, June 1964. It will be noticed that the record of evidence presented to the Select Committee is given in translation, i.e. the English version is printed throughout in English, and the Afrikaans version is printed throughout in Afrikaans, regardless of the language used in the course of taking evidence. (b) Minutes of Proceedings of the House of Assembly. The Minutes of the Senate are printed in a similar manner.
- (c) House of Assembly: Questions. (d) House of Assembly Debates. Each version is consistently in the one language. There seems to have been a recent change made with regard to quotations. At least until recently quotations were printed in the language in which they were cited (see extract from Assembly Debates of 23 March, 1961-- document 1(e)). More recently, however, it would appear that all quotations are rendered into the language in which the whole version is printed (cf. the quotations in the English and Afrikaans versions respectively in House of Assembly Debates of 28 April, 1965 -- documents 1(f)). There is no indication in the reporting of Questions and replies to them what the language used in

the House was (possibly because asterisks are already used in order to denote questions for oral reply). Elsewhere where the report is marked by an asterisk this indicates that the speech or passage is reported in translation.

Hansard (for the Senate as well as for the House) appears weekly on Fridays. The necessity of translating verbatim the whole of the proceedings in Parliament inevitably causes delay in publication and also, of course, considerable expense. In order to obviate these twin disadvantages the experiment was tried in 1924 of producing a so-called "piebald" Hansard, i.e., speeches were printed in the language used and there were no translations.

At present a scheme is under consideration for avoiding the delays but not the costs of the present system. The suggested system would still involve two versions, but each of them would be piebald. The one would give the speeches as made in the House and this would enable it to be produced daily, although with one day's delay to allow for verification and possible revision. (It could be brought out as well in weekly form). The other would be a complete translation-- i.e. speeches originally given in Afrikaans would appear in English and vice versa. The great drawback of such a proposal, however, is that the unilingual reader would have to make use of both versions and still encounter considerable inconvenience in order to follow the debates.

2. The "face-to-face" system, where the one page is in the one language, and the facing page is in the other. Examples of this procedure are:
 - (a) Standing Orders of the House of Assembly. The only deviation from the system to be found in this volume is the unavoidable provision of two separate Indexes.
 - (b) The Copy of a Bill (Bill to Amend the Deeds Registries Act, 1937).
3. The "parallel column" system -- a variant of the preceding system in that the translation appears side-by-side, but in a separate column on the same page instead of on the facing page. The example attached is taken from the Report of the Controller and Auditor-General.
4. The "piebald" system. Although this system was tried and abandoned for Hansard, it is still occasionally used. Illustrating this system is an extract from the report of the hearings of the Select Committee on Public Accounts, where no translations are given and the language tends to alternate between English and Afrikaans. The Report of the Select Committee itself, however, is given in translation using the "face-to-face" system.
5. The "integrated" system where the translation is integrated into the text. The example shown of this system is taken from the Estimates of Expenditure for the year ending 31 March, 1966. It is a form very commonly used for documents of a non-literary nature, i.e. where the text

consists mainly of headings, brief questions,.etc.--.
e.g. Post Office forms (for telegrams, registered articles,
delivery notices for parcels, etc); accounts; customs
declarations; income tax returns; statistical reports, etc.

6. The "up-ended" system, which has the advantage of giving equal priority to both versions. It is basically the "separate version" system except that both versions are included in the same document. The example shown here is of a Parliamentary circular headed, "New Method of Drafting Amending Bills." It is a system, incidentally, that is much favoured by political parties for the publication of campaign literature.

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Prof. Ellison Kahn. Dept. of Law. Witwatersrand University.

Mr. McFarlane. Secretary to the House of Assembly.

Mr. Victor. Deputy-Secretary to the House of Assembly.

Mr. Oberholzer. Deputy-Secretary, Ministry of Justice.

Additional material and documents furnished by Messrs. McFarlane and Oberholzer.

REPUBLIC OF SOUTH AFRICA.

REPORT

OF THE

SELECT COMMITTEE

ON

COINAGE

Printed by order of the House of Assembly.

JUNE, 1964.

1964.j

No. of Copies Printed, .. . 575.
Cost of Printing, .. . R1,436.00.

Price .. . R3.85.
Overseas .. . R4.85.
Post Free. G287.

REPUBLIEK VAN SUID-AFRIKA.

VERSLAG

VAN DIE

GEKOSE KOMITEE

OOR

MUNTE

Op las van die Volksraad gedruk.

JUNIE 1964

[G.K. 4-'64.]

Getal Eksemplare gedruk, .. . 480.
Drukkoste R1,507.00.

Prys R3.85.
Oorsel R4.86.
Poetry. . . . G286.

14th May, 1964.]

[Mr. G. J. Malan.]

point. What I am trying to say is that there is a constant change in public demand. If public demand were to be taken into consideration, representations would be made by the manufacturers of ice cream for a tickey coin, milk producers would ask for a $7\frac{1}{2}$ c coin and bakeries would ask for a $7\frac{1}{2}$ c coin.

498. *Chairman.*] As long as there is a combination of coins covering the prices of these commodities, we need not concern ourselves with this problem?—That is the point. This decimal progression series of 1, 2, 5 and 10 has withstood the沧海桑田 of time. This is the best series that can meet all the price shadings in the economy. If you do not mind my saying so, I feel that these witnesses are underestimating the intelligence of this Committee by putting forward the propositions they have. I am just stressing the importance of the fact that this proposed series must be designed for the next hundred years and that present conditions should not be taken into consideration at all. At a previous meeting it was stated that I had to satisfy the Committee that the Mint would in fact be capable of coping with the change-over. It will be easy to convince the Committee that the Mint will be able to cope with the change-over. Another point on which I do not think I have to dwell is the question of the fixed value to weight ratio. The banks also had an objection to that, but in their evidence they withdrew that objection. That is to say what the banks in Europe do in this connection, and there is no reason why that ratio should be retained.

499. I deem it advisable that the banks, in view of their practical experience in this field, should be given an opportunity to present their views in regard to the arguments put forward by the Director of the South African Mint. I should, therefore, like to suggest that copies of to-day's evidence be made available to the Reserve Bank for distribution amongst the commercial banks so that their views may be obtained?—All these institutions were represented at the meeting which I had with them. At this meeting the same arguments were put forward to them as were put to the Committee this morning. These arguments caused them to change their views. I have no objection to the evidence being circulated to these bodies.

500. *Mr. Coetze.*] Will the retention of the $2\frac{1}{2}$ c coin necessitate the minting of millions of $\frac{1}{2}$ c coins?—Yes. The banks agreed with me that the minting of the 2c coin would make the $2\frac{1}{2}$ c coin redundant.

501. *Chairman.*] If the tickey is made of nickel will it then be cheaper?—Yes.

14th May, 1964.]

[Mr. G. J. Malan.]

The following further memorandum was submitted by the Reserve Bank and the four larger commercial banks:

COMMENTS BY THE INTER-BANK STANDING COMMITTEE ON EVIDENCE GIVEN BY THE DIRECTOR OF THE SOUTH AFRICAN MINT ON THE 14TH MAY.

A meeting of representatives of the South African Reserve Bank and the four larger commercial banks was held on the 22nd May, 1964, to discuss and comment on the evidence given to the Select Committee by the Director of the Mint on the 14th May, 1964.

The Banks wish to make it clear at the outset that they are not in a position to accept all the assumptions upon which Mr. Malan's evidence has to a large extent been based. For example, Mr. Malan has expressed the view that the ratio of circulation of the 50c coin to the 20c coin will be at least 1 to 3. In the Banks' opinion it is not possible to make an estimate of the ratio at this stage, particularly when it is borne in mind that the Bantu are hoarders of silver coin and the 50c piece will be the most likely coin to be hoarded. Moreover, the Banks cannot accept Mr. Malan's assumption that more than 1,000 million coins less will have to be telled by the banks annually if the proposed series of coins is adopted. In fact, by far the greater proportion of coin circulates among the public and never reaches the banks and the banks handle only a minor portion of it.

It is apparent from his evidence that Mr. Malan is strongly opposed to the retention of the tickey and that his views in this respect are influenced mainly by considerations of cost. In the Banks' opinion the cost factor is of secondary importance. The prime consideration should be to meet the needs of the public and to supply the coins for which there is a demand.

In their original memorandum and also in their evidence before the Select Committee, the Banks expressed the view that the tickey could well be retained (the Reserve Bank feels strongly on this point), as it is still used very extensively in practice.

In February, 1962, there was a surplus of 12 million tickey coins throughout the country. This surplus was mainly due to the increase in the price of newspapers. Since 1962, however, approximately 11 million of the 12 million tickey coins have been taken back into circulation and the Banks anticipate that the present insignificant surplus in their hands will also shortly be taken into use by the public. It is evident,

14 Mei 1964.]

[Mnr. G. J. Malan.

497. *Mnr. Coetzee.*] Die kwessie van publieke aanvraag is geopper. Hoe kan ons bepaal wat die publieke aanvraag is na 'n besondere munstuk wat nog nie bestaan nie?—Dit is waar dit op aankom. Wat ek probeer sê, is dat daar 'n gedurige verandering in publieke aanvraag is. Indien publieke aanvraag in aanmerking geneem sou word, sou die resomys om 'n 6½c-munstuk vra, en bakkerse ora 'n 7½c-munstuk.

498. *Vorsitter.*] Solank daar 'n kombinasie moet bestaan wat die prys van dié handelsartikels behou, soek dan toe met dié probleem te bemoei nie?—Ja, is waar dit een aanzienlike hierdie desimale progressiereeks van 1, 2, 5 en 10 het die toets van die tyd deurstaan. Dit is die beste reeks, wat aan al die prysskakelings in die ekonomiese kan voldoen. As u nie ongee dat ek dit sê nie, ek voel dat dié getuies die intelligentie van dié Komitee onderskat deur die voorstelle te doen wat hulle wel gedoen het. Ek besientoon net die belangrikheid van die feit dat hierdie voorgestelde reeks vir die volgende honderd jaar ontwerp moet word en dat huidige omstandighede glad nie in aanmerking geneem moet word nie. By 'n vorige vergadering is daar gesê dat ek die Komitee moet oortuig dat die Munt wel in staat sou wees om die oorskakeling te behartig. Dit sal maklik wees om die Komitee te oortuig dat die Munt die oorskakeling saam behartig. Nog 'n punt waarby ek myns insiens nie hoeë stil te staan nie, is die kwestie van die vaste verhouding van waarde tot gewig. Die banke het 'n beswaar daar teen gehad, maar in hulle getuenis het hulle daardie beswaar teruggetrek. Hulle weet wat die banke in Europa in dié verband doen, en daar is geen rede waarom dié verhouding behou moet word nie.

499. Ek beskou dit as raadsaam dat die banke, met die oog op hulle praktiese ondervindings op dié gebied, 'n geleentheid gegee moet word om hulle reënvoer te stel met betrekking tot die argumente wat die Drieleërt van die Suid-Afrikaanse Munt aangevoer het. Ek wili dus vraag aan die hand doen dat afskrifte van vandag se getuenis beskikbaar gestel word aan die Reserwebank vir verspreiding onder die handelsbanke, sodat hulle menings verkry sal wat Al dié instellings was verteenwoordig op die vergadering wat ek met hulle gehad het. By dié vergadering is geskelelig argumente aan hulle gestel as wat vanoggend aan die *Krantjie* gestel is. Dié argumente het hulle van mening laat verzuim. Ek het geen beswaar daarteen dat die getuenis aan die *Krantjie* gesuur word nie.

500. *Mnr. Coetzee.*] Saai die reënvoer van die 2½c-munstuk die aanmuntting van miljoene 2½c-munstukke genoedsaak?—Ja. Die banke het met my gesuggereer dat die munt van die 2c-munstuk die 2½c-munstuk curioosig sal maak.

14 Mei 1964.]

[Mnr. G. J. Malan.

501. *Voorsitter.*] Indien die tiekie van nikkel gemaak word, sal dit dan goedkoper wees?—Ja.

Die Reserwebank en die vier grootste handelsbanke het die volgende verdere memorandum ingedien [Vertaling]:

KOMMENTAAR DEUR DIE VASTE INTER-BANK-KOMITEE OOR GETUENIS WAT DIE DIREKTEUR VAN DIE SUID-AFRIKAANSE MUNT OP 14 MEI GELEWER HET.

'n Vergadering van verteenwoordigers van die Suid-Afrikaanse Reserwebank en die vier grootste handelsbanke is op 22 Mei 1964 gehou om die getuenis wat die Direkteur van die Munt op 14 Mei 1964 voor die Gekose Komitee gelewer het, te bespreek en daarop kommentaar te lewer. Die Banke wil dit aan die begin duidelik stel dat hulle nie in 'n posisie is om al die veronderstellings waarop mnr. Malan se getuenis in hoë mate gegrond is, te aanvaar nie. Mnr. Malan het byvoorbeeld die mening uitgespreek dat die verhouding van die omloop van die 50c-munstuk tot die 20c-munstuk ten minste 1 tot 3 sal wees. Na die Banke se mening is dit nie moontlik om in hierdie stadium die verhouding te skat nie, veral as daar in gedagte gehou word dat die Bantoes silwermuntstukke oppot, en die 50c-munstuk die munstuk sal wees wat die waarskynlikste opgepot sal word. Verder kan die Banke nie mnr. Malan se veronderstelling aanvaar dat die banke jaarliks meer as 1,000 miljoen munstukke minder sal moet tel indien die voorgestelde munstreks aanvaar word nie. Om die waarheid te sê, verreweg die grootste deel van die munstukke is onder die publiek in omloop, en bereik die banke nooit nie, en die banke hanteer slegs 'n klein deel daarvan.

Uit sy getuenis is dit duidelik dat mnr. Malan sterk teen die behoud van die tiekie gekant is, en dat sy sienswyse in dié opsig hoofsaaklik deur oorwegings van koste beïnvloed word. Na die Banke se mening is die kostefaktor van sekondêre belang. Die hoofoorweging moet wees om aan die behoeftes van die publiek te voldoen en die munstukke te voorseen waarna daar 'n aanraag is.

In hulle oorspronklike memorandum en ook in hulle getuenis voor die Gekose Komitee het die Banke die mening uitgespreek dat die tiekie geredelik behou kan word (die Reserwebank voel baie sterk oor dié punt), aangesien dit nog steeds baie algemeen in die praktyk gebruik word.

In Februarie 1962 was daar 'n surplus van 12 miljoen tickies oor die hele land. Die surplus was hoofsaaklik aan [G.K. 4-'64]

No. 65—1965.] FOURTH SESSION, SECOND PARLIAMENT.

REPUBLIC OF SOUTH AFRICA.

MINUTES OF PROCEEDINGS OF THE HOUSE OF ASSEMBLY.

FRIDAY, 30TH APRIL, 1965.

The House met at 10 a.m.

1. Mr. Speaker took the Chair and read prayers.
2. Mr. Visse presented a petition from W. G. V. van der Westhuizen of Pretoria, a lieutenant, South African Police, praying for condonation of a break in his service.
Referred to the Select Committee on Pensions.
3. The Minister of Finance laid upon the Table:
Report of the Controller and Auditor-General on the accounts of the Milk Board for 1963-'64 and balance sheet as at 30th June, 1964 [R.P. 1964].
Referred to the Select Committee on Public Accounts.
4. The Minister of Education, Arts and Science laid upon the Table:
Government Notice—9th April, 1965.
5. The Minister of Bantu Administration and Development laid upon the Table:
Government Notices—23rd April, 1965.
Referred to the Select Committee on Bantu Affairs.
6. The Minister of Water Affairs laid upon the Table:
Reports in terms of section 157 of the Water Act, 1956, on the following proposed irrigation board water schemes:
(a) Supplementary—Crocodile River (Printed); and
(b) Curlews (Printed).
Referred to the Select Committee on Irrigation Matters.
7. The Minister of Water Affairs laid upon the Table:
Reports in terms of section 58 of the Water Act, 1956, on the following proposed Government water works:
(a) Supplementary—Nahoon River (Printed);
(b) Supplementary—Usutu River, First Phase (Printed);
(c) Supplementary—Ngagane (Printed);
(d) Hartenbos River (Printed); and
(e) Usutu River, Second Phase (Printed).
8. The Minister of Economic Affairs laid upon the Table:
(1) „Verslag oor die werksaamhede van die Permanente Komitee vir Nywerheidsvestiging en Grensgebiedontwikkeling vir 1964”; and
(2) Reports of the Board of Trade and Industries on—
(a) (i) Tariff relief in respect of certain industrial raw materials and requirements for the manufacture of electrical heating elements, fuel injection nozzles for diesel engines, roller bear-

No. 65—1965.] VIERDE SESSIE, TWEEDE PARLEMENT.

REPUBLIEK VAN SUID-AFRIKA.

NOTULE VAN VERRIGTINGS VAN DIE VOLKSRAAD.

VRYDAG, 30 APRIL 1965.

Die Raad kom om 10 vm. byeen.

1. Die Speaker neem die Stoel in en lees die gebed voor.
2. Mn. Visse dien 'n peticie in van W. G. V. van der Westhuizen van Pretoria, luitenant, Suid-Afrikaanse Polisie, waarin om verskoning van diensonderbreking versoek word.
Na die Gekose Komitee oor Pensioene verwys.
3. Die Minister van Finansies lê ter Tafel:
Verslag van die Kontroleur en Ouditeur-generaal oor die rekenings van die Melkraad vir 1963-'64 en balansstaat soos op 30 Junie 1964 [R.P. 28—'65].
Na die Gekose Komitee oor Openbare Rekenings verwys.
4. Die Minister van Onderwys, Kuns en Wetenskap lê ter Tafel:
Goewernementskennisgewing—9 April 1965.
5. Die Minister van Bantoe-administrasie en -ontwikkeling lê ter Tafel:
Goewernementskennisgewings—23 April 1965.
Na die Gekose Komitee oor Bantoesake verwys.
6. Die Minister van Waterwese lê ter Tafel:
Verslae ingevolge artikel 157 van die Waterwet, 1956, oor die volgende voorgestelde besproeiingsraadskemas:
(a) Aanvullend—Krokodilrivier (Gedruk); en
(b) Curlews (Gedruk).
Na die Gekose Komitee oor Besproeiingsake verwys.
7. Die Minister van Waterwese lê ter Tafel
Verslae ingevolge artikel 58 van die Waterwet, 1956, oor die volgende voorgestelde Staatswaterwerke:
(a) Aanvullend—Nafoonrivier (Gedruk);
(b) Aänvullend—Usuturivier, eerste fase (Gedruk);
(c) Aanvullend—Ngagane (Gedruk);
(d) Hartenbosrivier (Gedruk); en
(e) Usuturivier, tweede fase (Gedruk).
8. Die Minister van Ekonomiese Sake lê ter Tafel:
(1) Verslag oor die werkzaamhede van die Permanente Komitee vir Nywerheidsvestiging en Grensgebiedontwikkeling vir 1964; en
(2) Verslae van die Raad van Handel en Nywerheid oor—
(a) (i) „Tariff relief in respect of certain industrial raw materials and requirements for the manufacture of electrical heating elements, fuel injection nozzles for diesel engines, roller bearings, batteries, sensitive paper, furniture, and roofing

HOUSE OF ASSEMBLY

QUESTIONS

(NOTE: New questions are indicated by a marginal line.)

TUESDAY, 11TH MAY, 1965.

FOR ORAL REPLY:

★I. Capt. Henwood to ask the Minister of Transport:

- (1) What was the total expenditure of the Road Safety Council in respect of (a) salaries and wages and (b) other costs for each of the years 1960, 1962 and 1964;
- (2) (a) what was the total expenditure of each of the Provincial Road Safety Associations for these years, (b) what proportion of the costs is paid by the State and (c) how are funds raised by these associations?

★II. Mr. E. G. Malan to ask the Minister of Mines:

- (1) Whether boring-programmes have been planned for all the zones in the Western Transvaal of which the safety, as far as subsidence is concerned, is in question; if not, (a) why not and (b) for how many zones are boring-programmes still to be planned;
- (2) in the case of how many boring-programmes have the boring-operations (a) not yet been commenced, (b) been commenced and (c) been completed?

★III. Mrs. Suzman to ask the Minister of Bantu Administration and Development:

- (1) How many applications for permits in terms of Proclamation R.26 of 1965 were lodged with his Department by applicants in each province during the period 12th February to 30th April, 1965;
- (2) how many applications from each province (a) were granted, (b) were refused and (c) are still under consideration?

★IV. Dr. Moolman to ask the Minister of Bantu Education:

Whether in view of existing and intended motor assembly and engineering plants at East London, consideration has been given to the establishment of a vocational training centre for Bantu motor mechanics at Mdantsane?

★V. Dr. Moolman to ask the Minister of Economic Affairs:

Whether any trade agreements were concluded between the Republic and other countries during 1964; if so, (a) with which countries and (b) for which commodities?

★VI. Dr. Moolman to ask the Minister of Immigration:

- (1) (a) How many immigrants entered the Republic during the first quarter of 1964 and 1965, respectively, and (b) from which countries did they come;
- (2) (a) how many emigrants left the Republic during the same periods and (b) to which countries did they emigrate?

★VII. Mr. Tucker to ask the Minister of Justice:

- (1) Whether permission to hold a function in the grounds of the Leeuwkop Prison was given to any private person after the recent provincial election?

VOLKSRAAD

VRAE

(LET WEL: Nuwe vrae word met 'n kantstreep aangedui.)

DINSDAG, 11 MEI 1965.

VIR MONDELINGE BEANTWOORDING:

★I. Kapt. Henwood vra die Minister van Vervoer:

- (1) Wat die totale uitgawe van die Padveiligheidsraad ten opsigte van (a) salaris en lone en (b) ander koste vir elkeen van die jare 1960, 1962 en 1964 was;
- (2) (a) wat die totale uitgawe van elk van die Proviniale Padveiligheidsverenigings vir dié jare was, (b) watter gedeelte van die koste deur die Staat betaal word en (c) hoe dié verenigings fondse insamel?

★II. Mn. E. G. Malan vra die Minister van Mynwese:

- (1) Of boorprogramme beplan is vir al die sones in Wes-Transvaal waarvan die veiligheid wat insakking betref, betwyfel word; so nie, (a) waarom nie en (b) vir hoeveel sones boorprogramme nog beplan moet word;
- (2) in die geval van hoeveel boorprogramme die boorwerk (a) nog nie begin is nie, (b) begin is en (c) voltooi is?

★III. Mev. Suzman vra die Minister van Bantoe-administrasie en ontwikkeling:

- (1) Hoeveel aansoeke om permitte ingevolge Proklamasie R.26 van 1965 gedurende die tydperk 12 Februarie tot 30 April 1965 deur aansoekers in elke provinsie by sy Departement ingedien is;
- (2) hoeveel aansoeke uit elke provinsie (a) toegestaan, (b) geweier en (c) nog onder oorweging is?

★IV. Dr. Moolman vra die Minister van Bantoe-onderwys:

Of daar met die oog op bestaande en voorgenome motormonteer- en ingenieurswese-inrigtings by Oos-Londen, oorweging geskenk is aan die oprigting van 'n vakopleidingsentrum vir Bantoe-motorwerktuigkundiges by Mdantsane?

★V. Dr. Moolman vra die Minister van Ekonomiese Sake:

Of daar gedurende 1964 handelsooreenkoms tussen die Republiek en ander lande gesluit is; so ja, (a) met watter lande en (b) vir watter handelsware?

★VI. Dr. Moolman vra die Minister van Immigrasie:

- (1) (a) Hoeveel immigrante gedurende die eerste kwartaal van onderskeidelik 1964 en 1965 die Republiek binnegekom het en (b) van watter lande hulle gekom het;
- (2) (a) hoeveel emigrante gedurende dieselfde tydperke die Republiek verlaat het en (b) na watter lande hulle geëmigreer het?

★VII. Mn. Tucker vra die Minister van Justisie:

- (1) Of verlof om 'n byeenkoms op die terrein van die Leeuwkop-gevangenis te hou, na die onlangse provinsiale verkiesing aan 'n private persoon verleen is; so ja, (a) aan wie en (b) wat die aard van die byeenkoms was;
- (2) of hy 'n verklaring oor die aangeleentheid sal doen?

★VIII. Mev. Taylor vra die Minister van Landbou-ekonomiese en bemerkings:

vul is en ons moet hulle miskien of ontmoedig of ander stappe doen, maar ek weet nie of ons so ver moet gaan om die belangrike masjinerie moet veronsgaam wat behoorlik in werking gestel is om hulp te verleen aan die boekverkopers, om publitasies wat na die land kom in staat stel om deur die normale kanale te gaan om die boekrakke te bereik nie. Dit moet ons nie in die posisie laat belang daan ons ons belaglik maak by die uitgewers van die wêreld, met boeke wat op die gesig af volkome in orde is nie, wat herhaaldelik gelees is, wat altyd deur die doeane gaan het en wat in biblioteke vertoon is, met die gevolg dat hierdie boeke verdrag word en ons ons belaglik maak in ander dele van die wêreld. Genoeg skade word in elk gevall veroorsaak deur die bedrywighede van die agb. Minister en ander dinge, sodat ons nie belas moet wes met hierdie soort gedrag op hierdie besondere gebied, wat die aandag van mense in elke deel van die beskaafde wêreld bereik nie.

Ek sien op die boekrakke, selfs in ons parlementêre biblioteek, 'n aantal geskrifte wat te doen het met Marxism, 'n onderwerp wat ek moet merken ek nog nie eens gelees het nie, maar ek weet van 'n aantal lede aan die oorkant van die Huis wat dit grëtiglik lees sodat hulle iets te wete kan kom oor die stelsels wat in ander lande in swang is; en dit is die doel om boeke te publiseer oor die stelsels van ander lande, sonder die kritiek dat hierdie boeke alleen inslaan by diegene wat in besonder linksgesind is. Ek dink een van die agb. lede aan die oorkant het die naweek bestee aan 'n haidsosyn boek oor Marxism. As ons bv. party van die verslae lees met betrekking tot wat by aan die universiteit in die Transkei plaasvind, dan vind ons dat die baie toegewye lektor in daardie universiteit in werklikheid besig is om sy leerlinge in 'n deel daarvan te onderrig, sodat hulle op hooge kan kom met wat in ander dele van die wêreld plaasvind. Die doel van boeke is om mense in staat te stel om iets te lees, om te weet wat aangaan, en nie 'n onderwerp wat die eienaardige reaksie moet bewerkstellig wat ons hier kry wanneer 'n agb. lid opstaan om 'n beredeneerde saak aan die agb. Minister te stel nie.

Werksaamhede onderbreek om voortgang te rapporteer.

Raad Hervat:

Voortgang gerapporteer.

Die Raad verdaag om 7 nm.

DINSDAG, 27 APRIL 1965

VRAE

Vir mondelinge beantwoording:

Gesondheid: Geld van die Provincies Verhaal
***I. Mr. WOOD** vra die Minister van Gesondheid:

Of van die uitgawe wat sy departement bestryding van (a) malaria en (b) bilharzia aangegaan het, gedurende die afgelope vyf jaar op provinsiale administrasies verhaal is; so ja, watter jaarlike bedrae.

Die MINISTER VAN GESONDHEID:
Ja.

(a) Malaria. (b) Bilharzia.

Transvaal:	R160,319	R42,737
1959-'60	R133,863	R54,054
1960-'61	R133,392	R33,074
1962-'63	R179,627	R24,327
1963-'64	R185,322	R24,346

Natal:	R119,274	R68
1959-'60	R88,048	R103
1960-'61	R79,920	R80
1961-'62	R104,204	R98
1962-'63	R93,642	R162

Kaapprovinse:	R3,338	R2,728
1959-'60	R2,728	R6,839
1960-'61	R6,839	R4,228
1961-'62	R4,228	R4,857
1962-'63	R4,857	
1963-'64		

Malaria en bilharzia vorm deel van die aansoekelelike siekties wat ingevalle die Wet op Volksgesondheid deur plaaslike owerhede bestry moet word. Die bedrae hierbo genoem, vereenwoordig net die uitgawes wat die Departement van Gesondheid namens die Provinciale Administrasies aangegaan het op plekke waar daar nie plaaslike owerhede is nie, of waar plaaslike owerhede van hierdie verpligting vrygestel is.

Malaria- en Bilharzianavoring

***II. Mr. WOOD** vra die Minister van Gesondheid:

Of enige malaria- of bilharzianavoringsstaties in die Republiek gesluit is; so ja, wat (a) waarom en (b) waar hulle geleë was.

Die MINISTER VAN GESONDHEID:

Nee; (a) en (b) verval.

(1) Of daar op 1 Januarie 1964 voorwaardes met betrekking tot (a) vrugariewe, (b) vergodding vir verlies en (c) veiligheidsmaatreëls van toepassing was in verband met die vervoer deur die Union-Castle Mail Steamship Company van goud wat deur die Suid-Afrikaanse Reservebank versend is; so ja, watter voorwaardes;

(2) of die voorwaardes skriftelik voorgeskryf was;

(3) of daar sedert dié datum wysigings in hierdie voorwaardes aangebring is; so ja, (a) watter wysigings en (b) op watter datums;

(4) of hy stappe gedoen het om te verseker dat die huidige veiligheidsmaatreëls toereikend is?

Weiering van Visum vir Floyd ANC
***V. Mr. GORSHEL** vra die Minister van Binnelandse Sake:

(1) Of 'n aansoek om 'n visum om publiek te besoek van of ten talle van mnr. Floyd Anderson van enige State van Amerika ontsoek is, (a) op watter datum en (b) die aansoek as die doel van die aangegee is;

(2) of die aansoek toegestaan is; so watter datum die aansoeker verwag;

(a) 26 Maart 1965.

(b) Toerisme.

(2) Die aansoek is geweier en applieer op 2 April 1965 in kennis gestel.

Regulasies insake Terapeutiewe Sto

***VI. Mr. WOOD** vra die Minister van Binnelandse Sake:

(1) Ja.

(a) 26 Maart 1965.

(b) Toerisme.

(2) Die aansoek is geweier en applieer op 2 April 1965 in kennis gestel.

(1) Of daar in die aansoek melding gemaak is van 'n borg vir die besoek; so ja, wie die borg was?

Die MINISTER VAN BINNELANDSE SAKES:

(2) of daar in die aansoek melding gemaak is van 'n borg vir die besoek; so ja, wie die borg was?

(1) Ja, omdat reëllyng vir publikasie tref kon word voordat die SA:

(a) (i) Onbekend aangesien die by die Suid-Afrikaanse sake Madrid ingediend aangehandel is.

(ii) 3 Maart 1965.

(iii) 29 Maart 1965.

(iv) 23 April 1965.

(b) Onbekend.

(c) Onbekend. Mn. Skorzeny het by sy aankoms in Suid-Afrika passasierverklaringsvorm 2 dat hy vir besigheids- en studieendes na Suid-Afrika gekoer is;

(2) Onbekend.

Die MINISTER VAN FINANSIES:

(1) (a) Die Suid-Afrikaanse Reservebank het geen kontrak met die Union-Castle Mail Steamship Company vir die alleen-vervoer van goud nie. Daar is egter met die Redery ooreengekom oor 'n vrugtarief wat geld vir alle goud aangebied vir vervoer. Die huidige tarief is in 1961 neergele.

(b) Die vrugbrief maak voorsiening daarvoor dat die skeepsmaatskappy verantwoordelik sal wees in geval van verlies in transito.

(c) Die veiligheidsmaatreëls aan bord die skepe is die verantwoordelikheid van die skeepsmaatskappy.

(2) (3) en (4) Val weg.

Visum vir Otto Skorzeny

***IV. Mr. GORSHEL** vra die Minister van Binnelandse Sake:

(1) Of ene Otto Skorzeny toegelaat is om die Republiek binne te kom; so ja, (a) wat die datum van (i) aansoek om 'n visum, (ii) toestaan van die Republiek en (iii) binnekoms in die Republiek en (iv) voorname vertrek was, (b) waarom 'n visum aansoek gedoen is en (c) wat in die aansoek as die doel van die besoek aangegee is;

(2) of daar in die aansoek melding gemaak is van 'n borg vir die besoek; so ja, wie die borg was?

Die MINISTER VAN GESONDHEID:

(2) wanneer die regulasies gepubliseer word?

(1) Ja, omdat reëllyng vir publikasie tref kon word voordat die SA:

members opposite. Here is a reply given by the hon. the Minister of Finance on behalf of the Prime Minister to a question in the House last year, on 18 May. The Minister of Finance made a statement on behalf of the Prime Minister in respect of the Commonwealth Prime Ministers' Conference in London last year, and he said *inter alia*—

For South Africa there were three essential points which had to emerge from the Conference of Prime Ministers, and in all three respects the Union was given entire satisfaction.

The first was that the only official meeting of members of the Commonwealth, namely, the Conference of Prime Ministers, should not attempt to interfere in the domestic affairs of member countries.

The second point of importance was that, in view of public criticism in member countries regarding the Union's continued membership of the Commonwealth to-day, the Government desire to have a specific indication whether the Union is still welcome as a member. This question was put directly on behalf of South Africa, and, with due regard to the existing unanimity rule, was unambiguously answered in the affirmative.

The third point of importance for South Africa was that it was necessary once again to state clearly that the form of government of a member country—be it a republic or a monarchy—was entirely its own affair. This was so confirmed.

I therefore put it categorically as the Government's deduction after its participation in the Conference, that, should South Africa itself decide that it wishes to become a republic and to remain a member of the Commonwealth, the same willingness and desire to approve of its membership will then be experienced as was experienced now, despite differences, because of the value of mutual co-operation in respect of the important objectives of world peace and economic progress.

Fortunately I was in the House at the time, and I asked the hon. the Minister a question. I said—

In view of the importance of this statement, may I ask the hon. the Minister whether this statement has been issued with the knowledge and consent of other Commonwealth Prime Ministers?

The reply was—

As far as I am aware, Sir, it is a question for South Africa to put its deductions on what happened at the Conference. This is an internal matter, and, if I am not mistaken, I think other countries have made use of the opportunity of making statements too.

That was the foundation laid for the campaign that took place. We heard from the hon. the Prime Minister in Johannesburg—

The greater the majority of votes for the republic in the referendum, the more assured South Africa will be of remaining in the Commonwealth.

At Lichtenburg, from the Prime Minister—

Ek glo nie ons sal geweier word nie. By nadenke sal versigtigheid en verstandigheid die deurslag gee en sal die Unie lid van die Statebond kan bly. Die lede-lande het metbaar nodig.

The Minister of Finance—

Daar is geen spreke dat Suid-Afrika sal moet aansoek doen om hertoelating tot die Statebond nie. Ek glo dat die meerderheid ten gunste van die republiek so groot sal wees dat ons dit kan handhaaf.

At Muizenberg—

South Africa could not be expelled from the Commonwealth.

The hon. the Minister of Defence at Silverton—

To him, the English-speaking person, I want to say: Leave your monarchy, and we assure you you will remain in the Commonwealth.

The hon. the Deputy Minister of Education, Arts and Science—

Dit is duidelik dat om lid te bly van die Statebond 'n blote formaliteit geword het.

The Minister of Lands—

Parliament's powers would also be the same, and he gave the assurance that the republic would remain a member of the Commonwealth.

The Deputy Minister of the Interior—

'n Suid-Afrikaanse republiek sal nie vra om lid van die Statebond te word nie, maar sal bloot die Statebondslande in kennis stel dat hy as lid wil aanbly.

That is how the public were misled and hoodwinked in that referendum campaign. What the hon. the Prime Minister scoffed at came to pass, what he called United Party scaremongering became a reality. The hon. the Prime Minister has found that one of the prices of his republic is to be South Africa's membership of the Commonwealth. Now, Sir, he is trying to soften the blow by speaking of bilateral trade agreements with Great Britain and other

kumente, rekeninge en ander stukke oorlē wat betrekking het op die aangeleentheid wat ondersoek word.

- (d) Iemand wat versuim om te voldoen aan die bepalings van paragraaf (c), is aan 'n misdryf skuldig.

Die bewoording van ons amendement kom in hierdie geval ooreen met die bewoording in die Kaapse Onderwysordinansie wat gaan oor die inspeksie van skole en enige ondersoek wat as gevolg daarvan nodig mag wees. Om presies te wees, die amendement is dieselfde as die bepaling in Hoofstuk I, artikel 8 van die Kaapse Onderwysordinansie. Nou is ons van mening, meneer die Voorsitter, dat daar in die klousule twee spesifieke bepalings is. Die eerste gaan oor die inspeksie van skole, en die tweede het betrekking op 'n ondersoek wat in verband staan met so 'n inspeksie of die skole daarby betrokke. Ons gaan van die standpunt uit dat die twee dinge heeltemal geskei moet word.

Wat betref die eerste, die inspeksie van skole, wil ek aan die agb. Minister vra of hy van mening is dat dit nodig is om al hierdie regssprosedure by te sleep as daar 'n gewone inspeksie van 'n skool gehou word. Mens vra jou amper af of hy moeilikheid verwag met die oog op hierdie buitengewoon ingewikkeld regssprosedure; het ons al hierdie krasse bewoording nodig insake „die alie van 'n eed of bevestiging“ bloot ten opsigte van wat 'n doodgewone inspeksie van skole behoort te wees? Sien u sub-artikel (3) lui —

Die reg met betrekking tot getuies en getuienis wat geld in verband met strafsake in 'n landdroshof, geld mutatis mutandis ten opsigte van iemand wat ingevolge sub-artikel (2) as getuie gedagvaar of opgeroep word.

Ek wil graag van die agb. Minister weet of hy regtig meen dat dit nodig is om hierdie klousule so te bewoord asol dit 'n wet is wat in 'n gereghof toegepas word en om dit dan in verbinding te bring met 'n inspeksie van skole, selfs as onder sekere omstandighede 'n ondersoek noodsaaklik is? Sien u, meneer die Voorsitter, klousule 16 en 17 maak volgens ons oordeel voldoende voorsiening vir enige onreëlmatigheid aan die kant van 'n onderwyser of onderwyseres wat in 'n onderwysinrigting werkzaam is, en ek wil graag aan die agb. Minister sê, indien hy dit nie weet nie, dat in die debat oor die Wetsonwerp insake Kleurlingsonderwys in 1963, die agb. Minister van Kleurlingsake toe ons hierdie punt gekritiseer het, onderneem het om die aangeleentheid met die regadviseurs te bespreek en om terug te kom na die Raad en te sien of die klousule nie anders bewoerd kan word nie. Ek wil aan die agb. Minister net 'n paar uitleatings voorlees van wat sy kollega destyds gesê het toe ons hierdie selfde punt geopper het. Die Minister van Kleurlingsake het gesê —

Ek sal beslis oorweging gee aan die wenk en' dit andermaal grondig bespreek, en as dit moontlik is om dit in duideliker terme te bepaal, sal ek dit oorweeg. Maar ek sal my regadviseurs moet raadpleeg.

Quotations
of col. 5020
English
Version

Verder het die agb. Minister gesê —

Die een ondersoek het natuurlik betrekking op wangedrag en die ander op die normale inspeksie van skole, en ek sal nagaan wat ek kan doen om die bepalings duideliker te stel.

Ons het geen bewyse, meneer, dat as gevolg van daardie debat die agb. Minister ooit na die Raad teruggekom het met nuwe voorstelle nie. Trouens ek kan niets in die verslae vind dat iets ooit in die verband gedoen is nie. Maar ons sal bly wees as die agb. Minister in hierdie geval oorweging sal gee aan 'n paar dinge: Om of sy regadviseurs in hierdie verband te raadpleeg ten einde die klousule meer gepas opgestel te kry, in ooreenstemming met die amendement wat die Kaapse ordonnansie volg, of miskien om ons amendement te aanvaar wat reeds opgeneem is in 'n ordonnansie wat tans krag van wet het. Daar is nog 'n laaste puntjie wat ek wil noem en dit is dat al die bepalings in klousule 22 as 't ware beveilig word deur sub-paragraaf (d) van ons amendement wat sê dat iemand wat in gebreke bly om te voldoen aan die bepalings van paragraaf (c) hom skuldig sal maak aan 'n oortreding, wat ons dus in werklikheid sê is dat die bepalings dieselfde sal bly, maar dat die bewoording effens minder drasties moet wees en nie in sulke regsterme gehul moet wees nie. En, soos ek gesê het, paragraaf (d) van ons amendement bied voldoende beveiliging.

Dr. STEENKAMP: Ek ondersteun die amendement. Ek dink nie dit is nodig om in hierdie stadium meer te sê voordat die Minister geantwoord het nie, maar ek wil hom graag verwys na sy bewoording en ek wil graag sy verduideliking hê in verband daar mee. Die Minister sê in 22(1) —

Die Sekretaris kan enige skool of koshuis inspekteer . . .

en dan sê dit in sub-art. (2) —

Iemand wat ingevolge sub-art. (1) 'n skool of koshuis inspekteer . . .

Wat bedoel die agb. Minister? Hy sê in sub-art. (1) dat die Sekretaris enige skool of koshuis kan inspekteer, en dan in sub-art. (2) praat hy van „iemand wat ingevolge sub-art. (1) 'n skool of koshuis inspekteer“. Dit is mos die Sekretaris. Waarom inspekteer die Sekretaris dan nou skole of koshuise? Ek sal graag van die agb. Minister 'n verduideliking wil kry.

*Mnr. MOORE: Ek wil graag iets sê oor sub-art. (1). Die „Sekretaris“ soos omskryf is

REGLEMENT VAN ORDE

VAN DIE

VOLKSRAAD.

STANDING ORDERS

OF THE

HOUSE OF ASSEMBLY.

DEEL I.

PUBLIEKE SAKE.

BYEENKOMS VAN 'N NUWE PARLEMENT

1. Aan die begin van die Raad se verrigtings op die eerste dag waarop 'n nuwe Parlement byeenkom, lees die Sekretaris die proklamasie van die Staatspresident voor waarby die Parlement byeengeroep word.

2. (1) Nadat die proklamasie van die Staatspresident voorgelees is, lê die lede die eed of plegtige verklaring af.
(2) 'n Lid wat die Raad na die openingsplegtigheid vir die eerste keer bywoon, word deur twee lede ingebring en na die Tafel begelei om die eed of plegtige verklaring af te lê.

3. Die Sekretaris tree as voorsitter op tot tyd en wyl 'n Speaker gekies is.

4. Nadat lede die eed of plegtige verklaring afgelê het, en indien 'n kworum aanwesig is, gaan die Raad oor tot die verkiesing van 'n Speaker.

5. 'n Lid, wat die Sekretaris moet tocspreek, stel 'n ander lid wat aanwesig is, as Speaker voor deur die voorstel te doen „Dat ... Dat ... (met verwmelding van die naam van die lid) die Stoel van die Raad as Speaker inneem".

MEETING OF NEW PARLIAMENT

1. At the commencement of the proceedings of this House on the first day of the meeting of a new Parliament the Secretary shall read the State President's proclamation summoning Parliament.

2. (1) When the State President's proclamation has been read, the members shall be sworn or shall make affirmation.
(2) A member who attends this House for the first time after the opening ceremony shall be introduced and conducted to the Table by two members in order to be sworn or to make affirmation.

3. The Secretary shall act as chairman until a Speaker is elected.

4. After members have been sworn or have made affirmation and if a quorum is present, this House shall proceed to elect a Speaker.

5. A member, addressing himself to the Secretary, shall propose as Speaker another member then present by moving "That (naming the member) take the Chair of this House as Speaker".

Proclamation
read.

Members sworn.

Speaker to be
elected.

Member proposed as
Speaker.

PUBLIC BUSINESS.

MEETING OF NEW PARLIAMENT

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2 (a)

2 (b)

REPUBLIC OF SOUTH AFRICA.

Deeds Registries Amendment Bill.

(As read a First Time.)

BILL

TO

Amend the Deeds Registries Act, 1937.

(Introduced by the MINISTER OF LANDS.)

[A.B. 69—'65.]

REPUBLIEK VAN SUID-AFRIKA.

Wysigingswetsontwerp op Registrasie van Aktes.

(Soos vir die eerste maal gelees.)

WETSONTWERP

TOT

Wysiging van die Registrasie van 'Aktes Wet, 1937.

(Ingedien deur die MINISTER VAN LANDE.)

GENERAL EXPLANATORY NOTE:

- I** Words in bold type in square brackets indicate omissions proposed by Minister on introduction.
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- Words underlined with solid line indicate insertions proposed by Minister on introduction.
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BILL

To amend the Deeds Registries Act, 1937.

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 47 of 1937, as amended by section 1 of Act 43 of 1957 and section 1 of Act 43 of 1962.

1. Section *two* of the Deeds Registries Act, 1937 (hereinafter referred to as the principal Act), is hereby amended—
 (a) by the substitution for sub-section (1) of the following sub-section:
 "(1) Subject to the laws governing the public service there shall be appointed—
 (a) a chief registrar of deeds, who shall as such 10 be the chairman and executive officer of the deeds registries [regulations] advisory board mentioned in section *nine*, who shall, subject to the directions of the Minister, exercise such supervision over all the deeds registries as may 15 be necessary in order to bring about uniformity in their practice and procedure, and who shall also hold office as one of the registrars of deeds mentioned in paragraph (b);
 (b) in respect of each deeds registry, a registrar 20 of deeds or a registrar of Rand townships, as the case may be, who shall be in charge of the deeds registry in respect of which he has been appointed;
 (c) for each deeds registry, one or more [assistant 25 registrars of deeds or assistant registrars of Rand townships, as the case may be] deputy registrars of deeds or one or more assistant registrars of deeds or Rand townships, as the case may be, or one or more deputy registrars of deeds and one or more assistant registrars of deeds, who shall respectively have the power, subject to the regulations, to do any act or thing which may lawfully be done under this Act or any other law by a registrar of deeds, 30 or by the Rand townships registrar, as the case may be."; and
 (b) by the substitution for sub-section (1)*bis* of the following sub-section:
 "(2) No person shall be appointed as registrar, 40 deputy registrar or assistant registrar of deeds after the commencement of the Deeds Registries Amendment Act, 1957, unless he has passed the Public Service Law Examination or an examination deemed by the Public Service Commission to be equivalent 45

ALGEMENE VERDUIDELIKENDE NOTA:

- I** Woorde in vet druk tussen vierkantige hake dui aan skrappings deur Minister by indiening voorgestel.
-
- Woorde met 'n volstreep daaronder, dui aan invoegings deur Minister by indiening voorgestel.
-
-

WETSONTWERP

Tot wysiging van die Registrasie van Aktes Wet, 1937.

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel *twoe* van die Registrasie van Aktes Wet, 1937 Wysiging van artikel 2 van Wet 47 van 1937, soos gewysig deur artikel 1 van Wet 43 van 1957 en artikel 1 van Wet 43 van 1962.
- 5 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur sub-artikel (1) deur die volgende sub-artikel te vervang:
„(1) Daar word, met inagneming van die wetsbepalings op die Staatsdiens, aangestel—
- 10 (a) 'n hoofregister van aktes, wat as sodanig die voorsitter en uitvoerende beämpte is van die registrasie-regulasieraad registrasie-advisesraad vermeld in artikel *nege*, wat met inagneming van die Minister se voorskrifte, sodanige toesig uitoeft oor alle registrasiekantore as wat nodig mag wees om eenvormigheid in hul praktyk en procedure teweeg te bring, en wat ook die amp beklee van een van die registrateurs van aktes vermeld in paragraaf (b);
- 15 (b) ten opsigte van elke registrasiekantoor, 'n register van aktes of 'n register van Rand-dorp, na gelang van die geval, wat aan die hoofstaan van die registrasiekantoor waaroor hy aangestel is;
- 20 (c) vir elke registrasiekantoor, of meer assistent-registrateurs van aktes of assistent-registrateurs van Rand-dorp, na gelang van die geval, adjunk-registrateurs van aktes of een of meer assistent-registrateurs van aktes of Rand-dorp, na gelang van die geval, of een of meer adjunk-registrateurs van aktes en een of meer assistent-registrateurs van aktes, wat onderskeidelik bevoeg is om, met inagneming van die regulasies, enige handeling of ding te doen wat kragtens hierdie Wet of enige ander wetsbepaling wettig verrig kan word deur 'n register van aktes of deur die register van Rand-dorp, na gelang van die geval.”; en
- 25 (b) deur sub-artikel (1)*bis* deur die volgende sub-artikel te vervang:
„(2) Niemand word na die inwerkingtreding van die Wysigingswet op Registrasie van Aktes, 1957, as register, adjunk-register of assistent-register van aktes aangestel nie, tensy hy in die Staatsdienseksamen in die Regte of 'n eksamen wat die Staatsdienskommissie daarsoen sal vyfjaardig,
- 30
- 35
- 40

REPORT

of the

Controller and Auditor-General

on the

Accounts of the Oilseeds Control Board for the Accounting Year 1st July, 1962, to 30th June, 1963, and the Balance Sheet as at 30th June, 1963.

1. Audit Certificate.

The Balance Sheet as at 30th June, 1963, and the accounts for the accounting year 1st July, 1962, to 30th June, 1963, of the Oilseeds Control Board, have been examined under my direction in accordance with the provisions of the Exchequer and Audit Act, No. 23 of 1956, read with section 18 *ter* of the Marketing Act, No. 26 of 1937. Subject to the remarks which follow, the Balance Sheet and Statements of Account, which are annexed as Statements Nos. 1 to 12, have in my opinion been properly drawn up to exhibit a correct view of the Board's financial affairs according to the information and explanations furnished and as shown by the records. I have accordingly certified the Balance Sheet which appears on pages 8 and 9.

In accordance with the provisions of the Exchequer and Audit Act, I appointed Messrs. Altmann and Brugman, Chartered Accountants (S.A.), of Pretoria, to carry out the audit of these accounts under my direction for the year ended 30th June, 1963.

(A.O. 32/22/12, Vol. II.)

2. Powers and Functions.

The powers and functions of the Board are defined in the Oilseeds Control Scheme promulgated under Proclamation No. R. 27, dated 14th July, 1961.

The purpose of the Scheme is the regulation of the production and marketing of groundnuts and sunflower seed in terms of the Marketing Act, 1937.

(A.O. 32/2/12.)

3. Plan of Accounts.

The statements for the accounting year ended 30th June, 1963, and which are published with this report, comprise:—

Balance Sheet.....	Statement No. 1.
Income and Expenditure Accounts in respect of—	
General Fund.....	Statement No. 2.
Levy Funds.....	Statement No. 3.
Special Levy Funds.....	Statement No. 4.
Sunflower Seed Equalisation Fund.....	Statement No. 5.
Special Levy Funds—Protectorates.....	Statement No. 6.
Summary of Final Pool Accounts, 1961–62 Season.....	Statement No. 7.

VERSLAG

van die

Kontroleur en Ouditeur-generaal

oor die

Rekenings van die Oliesadebeheerraad vir die Boekjaar 1 Julie 1962 tot 30 Junie 1963 en die Balansstaat soos op 30 Junie 1963.

1. Ouditsertifikaat.

Die Balansstaat soos op 30 Junie 1963 en die rekenings vir die boekjaar 1 Julie 1962 tot 30 Junie 1963 van die Oliesadebeheerraad is onder my toesig ingevolge die bepalings van die Skatkis- en Ouditwet, No. 23 van 1956, gelees met artikel 18 *ter* van die Bemarkingswet, No. 26 van 1937, geouditeer. Behoudens die opmerkings hieronder, is die Balansstaat en rekeningstate wat as State Nos. 1 tot 12 aangeheg is, na my mening behoorlik opgestel om 'n juiste weergawe van die Raad se geldsake te gee volgens die inligting en verduidelikings wat verstrek is en soos deur die rekords aangetoon is. Ek het gevoldiglik die Balansstaat wat op bladsye 10 en 11 voor-kom, gesertifiseer.

Kragtens die bepalings van die Skatkis- en Ouditwet het ek die firma Altmann en Brugman, Geoktrooierde Kekkameesters (S.A.) van Pretoria, aangestel om hierdie rekenings vir die jaar geëindig 30 Junie 1963 onder my toesig te ouditeer.

(A.O. 32/22/12, Vol. II.)

2. Bevoegdhede en funksies.

Die bevoegdhede en funksies van die Raad word in die Oliesadebekerskema omskryf wat by Proklamasie No. R. 27, in 14 Julie 1961, afgekondig is.

Die Skema is om die produksie en bevronding van grondbone en sonneblomsaad kragtens die 1, 1937, te reël.

(A.O. 32/2/12.)

3. Uiteensetting van rekenings.

Die state vir die boekjaar geëindig 30 Junie 1963 wat saam met hierdie verslag gepubliseer word, bestaan uit:—

Balansstaat.....	Staat No. 1.
Inkomste-en-uitgawerekenings ten opsigte van—	
Algemene fonds.....	Staat No. 2.
Hesslingsfondse.....	Staat No. 3.
Spesiale hesslingsfondse.....	Staat No. 4.
Sonneblomsaadvereffeningsfonds.....	Staat No. 5.
Spesiale hesslingsfondse—Protectorate.....	Staat No. 6.
Opsomming van finale poelrekenings—	
Seisoen 1961–62.....	Staat No. 7.

REPUBLIC OF SOUTH AFRICA.

SECOND REPORT
OF THE
SELECT COMMITTEE
ON
PUBLIC ACCOUNTS

(Printed by Order of the House of Assembly.)

[S.C. 1B—'65.]—ORIGINAL EVIDENCE.

REPUBLIEK VAN SUID-AFRIKA.

TWEEDE VERSLAG
VAN DIE
GEKOSE KOMITEE
OOR
OPENBARE REKENINGS

(Op las van die Volksraad gedruk.)

G.K. 1B—'65.]—OORSPRONKLIKE GETUIENIS.

Cost of Printing/Drukkoste, R1,330.00
Price/Prys R1.45
Overseas/Oorsee .. R1.85
Post Free/Posvry.

G085.

boekjaar was nie, maar dalk net dat party van die eise uitgestel is. (Genl. Keey.) Daar is altyd eise wat later by die bedrag gevog moet word. U sal in die tabel kan sien dat die syfers vir die vorige twee jaar gewysigde syfers is. Die syfers vir die verslaagjaar kon nog nie gewysig word nie, want daar mag nog meer eise uitbetaal word, maar dit sal wel later gedoen word.

119. *Mr. Ross.*] With reference to paragraph 2 (2) I notice that there is a large difference between the amounts paid to third parties on account of motor accidents during 1962-'63 and those paid during 1963-'64. Is this increase unusual or high or is it approximately in proportion to the increase in population and the expansion of Police Force?—
[*Genl. Keey.*] The amount paid to third parties during 1961-'62 that paid during 1962-'63. This is... depends on the nature of the accidents because in the case of some accidents there is more compensation to be paid than in others. The amount of compensation payable does not increase or decrease according to the number of accidents. It depends only upon the nature of the different accidents.—

120. The number of accidents has nevertheless increased?—Yes, that is so, but because they are accidents, they do not occur according to a pattern. The number of accidents may therefore vary from year to year. There does, however, not seem to be an abnormal increase in the number of accidents.

121. You are satisfied with the position as it is?—Yes, I am quite satisfied. In relation to the village covered and the work done, the number of accidents is not abnormally high.

Theft or Irregular Use of Government Property (para. 3, p. 297).

122. *Mr. Waterston.*] Gen. Keey, I notice from the table appearing here that there were 49 cases in which firearms were involved in the losses. Did most of these firearms come from police-stations?—(*Gen. Keey.*) No, most of these firearms were stolen from policemen or from the homes of policemen. You will see from the table that a large portion of the value of these firearms has been recovered from the policemen concerned. This means that, in cases where we considered that adequate precautions were not taken in safeguarding these arms, the policemen concerned had to pay for the stolen firearms.

123. What, approximately, is the value of a revolver?—A revolver costs from R30 to R35, according to its make and calibre.

124. The number of weapons stolen is therefore not very large?—No, not when one takes into consideration the fact that there are more than 10,000 firearms in use by the police force.

125. *Mnr. Botha.*] Is dit 'n vaste reël dat die waarde van alle verlore vuurwaps deur die betrokke polisie-beamptes vergoed moet word?—Nee, dit hang van die omstandighede af. Gevalle van dié aard word altyd deur 'n raad oorweeg. As die raad oortuig is dat die vuurwapen nie weens die natigheid van die betrokke polisie-beampte verloor is nie, dan dra Staat die verlies. Dit verduidelik dan die verlies van R153 deur die Staat gedra moet word.

Corporate Vergoedingsbetaalings (par. 5, bl. 297).

126. *Voorstitter.*] Mnr. Meyer, in hierdie paragraaf word daar syfers aangegee ten opsigte van skadevergoeding wat uit wederregtelike inhegtenismeming en aanranding deur lede van die Mag voortgespruit het. Na my mening is die tweedale wat hierdie skadevergoeding genoodsaak het, heeltemal apart en uiteenlopend. Kan ons nie twee aparte syfers ten opsigte hiervan kry nie?—(*Mnr. Meyer.*) Ja, in die toekoms kan hierdie syfers afsonderlik aangegee word. Ter inligting van die Komitee sal ek nou die aparte syfers verstrek. Daar was 30 gevalle van wederregtelike inhegtenismeming waarby die bedrag betrokke R16,539 beloop het en 14 gevalle van aanranding waarby die bedrag betrokke R5,580 beloop het.

127. In die vorige boekjaar was daar 47 gevalle van wederregtelike inhegtenismeming en aanranding en die bedrag daarby betrokke was R12,842. In vergelyking met die syfers vir hierdie boekjaar, het daar 'n aansienlike styging plaasgevind. Kan u die Komitee meeедel waarom die styging plaasgevind het?—(*Genl. Keey.*) Dit is maar weer 'n toevalige styging wat plaasgevind het. Sake van dié aard word natuurlik ondersoek wanneer hulle aangegee word. Daarna word hulle almal aan die Prokureur-generaal voorgele. Die Prokureur-generaal het toe ten opsigte van hierdie gevalle besluit dat die betrokke beamptes aangekla behoort te word. Ek kan die Komitee verseker dat alle moontlike dissiplinêre stappe gedoen word om voorvalle van dié aard te voorkom. Daar word gesinsies probeer om dié gevalle goed te praat nie. Dit is net ongelukkig dat daar in hierdie boekjaar soveel meer voorgekom het.

128. *Dr. Coertze.*] Het die getal inhegtenismemings nie ook gestyg nie?—Die getal inhegtenismemings styg elke jaar met ongeveer 7 tot 10 persent.

APPENDIX

AANHANGSEL

RESOLUTIONS OF THE SELECT COMMITTEE ON
PUBLIC ACCOUNTS FOR 1964 AND THE
TREASURY REPLIES THEREON, AND
FURTHER REPLY TO RESOLUTION NO. 4
OF THE FOURTH REPORT, 1963.

FIRST REPORT

UNAUTHORIZED EXPENDITURE (1962-'63).

Your Committee begs to report that items of expenditure amounting to R228,222.30, specified in paragraph 7, page 8, of Part I of the Report of the Controller and Auditor-General on the Appropriation Accounts for 1962-'63 [R.P. 57—'63], are unauthorized and require to be voted. Your Committee, having made enquiry into the circumstances, recommends the above sum for specific appropriation by Parliament, apportioned as follows:

On Revenue Account.

	R	R
(1) Vote 17—Customs and Excise	38,489.03	
(2) Vote 20—Social Welfare and Pensions	57,410.08	
(3) Vote 34—Posts, Telegraphs and Telephones	131,151.99	
(4) Vote 40—Defence	1,171.20	
		<u>R228,222.30</u>

REPLY:

The recommended appropriation of R228,222.30 was disposed of by the passing of the Unauthorized Expenditure (1962-'63) Act, 1964 (Act No. 26 of 1964).

BESLUTTE VAN DIE GEKOSE KOMITEE OOR
OPENBARE REKENINGS VIR 1964 EN DIE
TESOURIE-ANTWOORDE DAAROP, EN VER-
DERE ANTWOORD OP BESLUIT NO. 4 VAN
DIE VIERDE VERSLAG, 1963.

EERSTE VERSLAG

ONGEMAGTIGDE UITGawe (1962-'63).

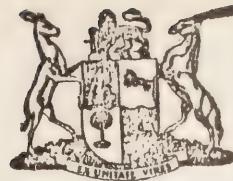
U Komitee het die eer om verslag te doen dat items van uitgawe ten bedrae van R228,222.30, wat in paragraaf 7, bladsy 8, van Deel I van die Verslag van die Kontroleur en Ouditeur-generaal oor die Appropriaasierekenings vir 1962-'63 [R.P. 57—'63] aangegee word, ongemagtig is en bewillig moet word.
Nadat u Komitee die omstandighede ondersoek het, beveel hy bostaande bedrag vir bepaalde beskikbaarstelling deur die Parlement aan, toegewys soos volg:

Op Inkomsterekening.

	R	R
(1) Begrotingspos 17—Doeane en Ak-syns	38,489.03	38,489.03
(2) Begrotingspos 20—Volkswelyn en Pensioene	57,410.08	57,410.08
(3) Begrotingspos 34—Pos-, Telegraaf-en Telefoonwese	131,151.99	131,151.99
(4) Begrotingspos 40—Verdediging	1,171.20	1,171.20
		<u>R228,222.30</u>

ANTWOORD:

Die aanbevole beskikbaarstelling van R228,222.30 is afgehandel deur die aanname van die Wet op Ongemagtige Uitgawes (1962-'63), 1964 (Wet No. 26 van 1964).



REPUBLIEK VAN SUID-AFRIKA.

BEGROTING

VAN DIE

UITGAWES

WAT UIT

INKOMSTEREKENING

GEDURENDE DIE

Jaar wat op 31 Maart 1966 eindig

BESTRY MOET WORD.

[MET UITSONDERING VAN SPOORWEË- EN HAWENSADMINISTRASIE.]

REPUBLIC OF SOUTH AFRICA.

ESTIMATES

OF THE

EXPENDITURE

TO BE DEFRAYED FROM

REVENUE ACCOUNT

DURING THE

Year ending 31st March, 1966.

[EXCLUDING RAILWAYS AND HARBOURS ADMINISTRATION.]

Aan albei Huise van die Parlement aangebied.
Presented to both Houses of Parliament.

Begrutingspos 50.
Vote 50.

Beplanning—vervolg.
Planning—continued.

	1965-66.	1964-65.
	R	R
B.—Verblyf- en Vervoerkoste—Subsistence and Transport.		
Verblyfkoste—Subsistence	20,550	14,350
Motorvervoer—Motor transport	14,550	12,700
Algemene vervoer—General transport	13,900	8,650
	49,000	35,700
C.—Pos-, Telegraaf- en Telefoonondienste—Postal, Telegraph and Telephone Services.		
Private possakke en posbusse—Private post-bags and post-boxes	100	100
Telegramme en kabels—Telegrams and cables	420	720
Telefone—Telephones	7,480	7,180
	8,000	8,000
D.—Drukwerk, Skryfbehoefte, Advertensies en Publikasies—Printing, Stationery, Advertisements and Publications.		
Drukwerk—Printing	11,750	2,250
Skryfbehoefte—Stationery	9,550	9,550
Advertensies—Advertisements	5,000	5,000
Publikasies—Publications	4,700	2,700
	31,000	19,500
E.—Diverse Uitgawes—Miscellaneous Expenses.		
Amptelike onthaal deur of namens—Official entertainment by or on behalf of:		
Sekretaris van Beplanning—Secretary for Planning	200*	200
Voorsitter, Groepsgebiederaad—Chairman, Group Areas Board	100*	
Voorsitter, Raad vir die Ontwikkeling van Natuurlike Hulpbronne—Chairman, Natural Resources Development Board	100*	
Departementele onthaal—Departmental entertainment	300	240
Aankoop, huur en onderhoud van kantooruitrusting en meganiese arbeidsbesparende hulpmiddels—Purchase, hire and maintenance of office equipment and mechanical labour saving devices	3,450	3,150
Bantoe-registrasiegelede (Artikel 23 van Wet No. 25 van 1945) en heffings ten opsigte van Bantoewerknelers (Wette No. 64 van 1952 en No. 53 van 1957)—Bantu registration fees (Section 23 of Act No. 25 of 1945) and levies in respect of Bantu employees (Acts No. 64 of 1952 and No. 53 of 1957)	100	100
Aankoop van uniforms, stewels, ens., vir bodes, opsligers, ens.—Purchase of uniforms, boots, etc., for messengers, caretakers, etc.	200	200
Bykomende uitgawes in verband met oorplasnings van amptenare—Incidental expenses in connection with transfers of officials	1,700	1,700
Indiensneming van nagraadse studente: Vergoeding aan Dosente—Employment of post-graduate students: Payments to Lecturers	300	600
Raad vir die Ontwikkeling van Natuurlike Hulpbronne en Hulpkomitees (Wet No. 51 van 1947)—Algemene benodigdhede—Natural Resources Development Council and Subsidiary Committees (Act No. 51 of 1947)—General requirements	300	300
Ontwikkeling van Grensgebiede—Development of Border Areas: Voorslewing vir subsidies vir die oprigting van nywerheidsgeboue en/of verliese op behuisingskemas en ander subsidies en verliese—Provision for subsidies for the erection of Industrial buildings and/or subsidies on housing schemes and other subsidies and losses	30,250	26,500
Klein uitgawes—Petty expenses	1,000	810
	38,000	33,800
F.—Onkoste ingevolge Groepsgebiedewetgewing—Expenses under Group Areas Legislation.		
Terugbetaling van geldie kragtens artikel 18 (11) van Wet No. 77 van 1957—Refund of fees under section 18 (11) of Act No. 77 of 1957	1,000a	1,000
Gelde betaalbaar kragtens artikel 6 (1) (a) van Wet No. 77 van 1957—Fees payable under section 6 (1) (a) of Act No. 77 of 1957	100	100
Opmetingsgelde (Artikel 27 (2) van Wet No. 77 van 1957)—Survey fees (Section 27 (2) of Act No. 77 of 1957)	4,000	2,500
Voorbereiding van woordelike verslae van verrigtinge by verhore van die Groepsgebiederaad—Preparation of verbatim reports of proceedings at hearings of the Group Areas Board	900	900
	6,000	1,500

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA.

HOUSE OF ASSEMBLY,

CAPE TOWN.

26th October, 1964.

CIRCULAR

**To all Heads of Departments,
Government Law Advisers and
Private Secretaries of Ministers.**

NEW METHOD OF DRAFTING AMENDING BILLS

At the request of Mr. Speaker, I have to draw your attention to the following paragraph of the Report of the Select Committee on the Revision of the Rules, which was adopted by the House of Assembly on the 29th May, 1964:

Your Committee wishes to place on record that in its opinion the new method of preparing bills, which was introduced as a result of the recommendation contained in paragraph (4) of the Report of the Select Committee on the Revision of the Rules, 1963, has been of great assistance to members. It considers, however, that the present method could be further improved by—

- (a) reprinting the full text of sections, sub-sections, etc., which are to be amended for the first time; and
- (b) indicating by means of a solid line in the margin those proposed new clauses, sub-sections, etc., which are entirely new provisions and therefore open to debate in the House.

To give effect to the recommendation contained in para. 4 of my report, I submit the following revised suggestions, which replace those contained in my circular of 3rd October, 1963, and the addendum of the 7th October, 1963:

- (1) When a section, sub-section, paragraph or sub-paragraph of an Act is to be repealed or deleted, this should be effected by the method used in the past.
- (2) When the amendments to be made are of a minor or consequential nature or are self-explanatory, such amendments may be effected by the method used in the past. Examples of this type of amendment are the substitution of "Republic" for "Union", "State President" for "Governor-General" and "Bantu" for "Native", the correction of discrepancies between the English and Afrikaans versions of Acts and the substitution of references to Acts.
- (3) (a) When a section, sub-section, paragraph or sub-paragraph is to be amended, the whole section, sub-section, paragraph or sub-paragraph, as the case may be, should be typed—
 - (i) with the words to be inserted underlined and the words to be deleted placed between square brackets; and
 - (ii) with a dotted line under those words and expressions which are to be printed in italics,
 as in the following example:

Amendment of
section 19 of
Act 29 of 1942,
as amended by
section 8 of Act
27 of 1952.

Section nineteen of the principal Act is hereby amended by the substitution for sub-section (2) of the following sub-section:

"(2) Any person who or any State, Government or body of persons which is the owner of a motor vehicle (other than a motor vehicle mentioned in paragraph (b) of sub-section (2) to which the provisions of sub-section (1) do not apply) which is not insured under this Act shall be liable mutatis mutandis in accordance with the provisions of sections eleven and twelve for any loss [or damage] caused by or arising out of the driving of that motor vehicle by any person whatsoever at any place in the Union, as if that person, State, Government or body of persons were a registered company which has furnished its written consent under sub-section (2) of section three and in consequence there has been issued a declaration of insurance under section three with reference to that motor vehicle, but the foregoing provision of

- (b) Only the sub-section, paragraph or sub-paragraph, as the case may be, actually to be amended need be inserted in full, with the amendments indicated as in the example in sub-paragraph (a) above.
- (c) In cases, however, where the other sub-sections, paragraphs, or sub-paragraphs of the section have previously been extensively amended, it is suggested that the whole section be re-enacted, with the proposed amendments indicated as in the example in sub-paragraph (a) above.

NOTE: Debate at the Committee Stage will be confined to the amendments.

- (4) When a section, sub-section, paragraph or sub-paragraph is to be so extensively amended as to become in effect a new provision, the existing provision may be repealed or deleted and the new one substituted in the Bill by the method used in the past, without the amendments being indicated.

NOTE: The whole provision, and not only the amendments, will then be open to debate at the Committee Stage. However, if the amendments are indicated as in paragraph (3) (a) above, discussion will be confined to such amendments.

- (5) When an entirely new section, sub-section, paragraph or sub-paragraph is to be inserted in an Act, this should be effected by the method used in the past.
- (6) A provision which is being inserted in an Act in terms of paragraph (4) or paragraph (5) above and which has no amendments indicated, must be underlined or indicated with a solid line in the margin of the manuscript Bill.
- (7) When sections, sub-sections, paragraphs or sub-paragraphs of Acts which have previously been amended are to be repealed or deleted in terms of paragraphs (1) or (4) above, members may have to refer to a number of existing statutes in order to ascertain what is in fact being repealed or deleted. In such cases Mr. Speaker has suggested that where practicable and where the responsible Minister considers it advisable explanatory memoranda should be issued in which the existing sections, sub-sections, paragraphs or sub-paragraphs, as the case may be, should be set out in full, incorporating all previous amendments which are still in force. Such memoranda can at the discretion of the responsible Minister be issued for general information or for the information of members only and can be in either printed or typed form.

The note in an explanatory memorandum could, it is suggested, be in the following form:

Section/sub-section, etc., of section.....of Act No.....of....., which Clause.....proposes to repeal, reads as follows at present:

.....

- (8) The above suggestions should also be applied as far as possible to schedules to Bills.

Consolidating and amending bills

As a result of the amendments effected to the Standing Orders during the 1964 session, Bills which purport to consolidate and amend the existing law will in future be subject to the ordinary rules of procedure, i.e. all their provisions will be open to discussion in the House. It is therefore suggested that Departments should revert to the former procedure of first introducing amending Bills and subsequently introducing consolidating Bills, which will be dealt with in terms of the Standing Order relating to consolidating Bills.

Secretaries van die Volkseraad.

R. J. MCFARLANE,

Dit sal op prys gesetel word indien alle wylsighede swetgegewing wat na ontvalings van hierdie omsend-
briele opgesetel word, soekenkomstige die herstele voortelle opgesetel kan word.

As gevölg van wylsgoms van die Reglement van Orde Gedurnde die 1964-sesse, sal wetsonderwerp bestande reg wyl konsoliddeer sowel as wylsg, in die toekoms aan die gewone prosedure-reels wat die bestanddele reg wyl konsoliddeer sowel as wylsg, in die Gedurnde die 1964-sesse, sal wetsonderwerp onderhewing wees, d.w.s. al die bepallings daarvan sal vir besprekking in die Raad oop wees. Daar word dus aan die hand gedoen dat Departemente terugker tot die vroegste prosedure waarvolgens daar eers wylsgingswesentlike ingebedien word en daarina konsolidasiewepre, wat behandel sal word ooreenkomslike artikel van die Reglement van Orde wat op konsolidasiewesontworp bestrukking het.

Konsolidasie-en wissigingswetsontwerp

(8) Bostaannde voorstelle mocht sover moonlik ook op bylaes van wetsontwerp toegepas word.

Artikkel/suub-artikkel, ens, van artikkel, van Wet No. van wat Kluousle,, staan te herroep, lui tans soos volg:

vorm kan wees:

Wanneer artikels, sub-artikels, paragraafse van sub-paragraafse wat voorheen reeds geswysig is, ooreenkomsstig paragraafse (1) of (4) hierbo boerek of geskrap gaan word, sal lede moonlik na 'n aantal bestande wette moet verwyss ten einde vas te stel wat in werklikheid herroep of geskrap word. In sulke gevalle het die Spesaker aan die hand gedoen dat war dit doenlik is en die verantwoordelike Minister dit raadsaam is, toegepaste memorandums uitgereik word wat eerstelike bestande artikels, sub-artikels, paragraafse van sub-paragraafse, na geelang van die gevval, volledig uitteengesit word, met al die voorige wysigings wat nog van krag is, daarin opgeneem. So danige memorandums kan na goeduukte van die verantwoordelike Minister vir algemeen belangsliegs vir die inligtinge van lede nota in 'n toegeweende memorandum in die volgende word aan die hand gedoen dat die nota in geelgtese of in geskryflike vorm wees.

(6) *In Beperking wat ooreenkomsstig paragraaf (4) of paragraaf (5) hierbo die in wet ingevoeg word en waarin daar geen wylgigs aangetref is nie, moet in die manuskip-wetsontwerp onderskep word of deur 'n volstreep in die kantlyn daarvan aangeleid word.*

(3) Wanneer ik helemaal nuwe artikels, sub-articles, paragraaf of sub-paragraaf in een werk ingevoegd moet dit gedoeen word volgens die metode wat in die verlede gebruik is.

sai besprekking tot sondamige wylsgings beperk wees.

uit besprekking. Indien die wysigings egter soos in paraagraaf (3) (a) hierbo aangegeui word,

NOTA: Die heile bepalming, en nie sllegs die wylsgings nie, sal dan in die komiteestadium oop wees

is, sonder dat die wylsigings aangetui word.

die nuwe beplating in die wetsontwerp verlang word volgens die metode wat in die verlede gebruik

dit in werklikheid h nuwe bepaalung word, kan die bestande bepaalne heteroep of geskrap en deur

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NUWE METODE OM WYSIGINGSWETSONTWERPE OP TE STEL

Privaatsekretaris van Ministers.

Regulating registrars as advisers

Aan alle Hoofde van Departemente,

NATIONAL CAPITAL

The national capital provisions made by South Africa, although original and interesting, seem hardly relevant to the Canadian situation. See, however, p. 68 in the Background Essay.

